
HISTORICAL RECORDS
OF
AUSTRALIA.

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HISTORICAL RECORDS

OF

AUSTRALIA.

SERIES 1.

GOVERNORS' DESPACHES TO AND
FROM ENGLAND.

VOLUME XVII.

1833—JUNE, 1835.

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SER. I. V. XVI

INTRODUCTION.

GOVERNOR BOURKE.

GOVERNOR BOURKE* arrived at Sydney in the ship *Margaret* on the 2nd of December, 1831. His arrival was at a most opportune moment for his success. Most favourable reports of his character and ability and of his career as a soldier had preceded him to the colony. Governor Darling had sailed from Port Jackson six weeks earlier in a wave of unpopularity, largely unmerited and principally due to causes to which Bourke was not exposed. The colonists were recovering from the effects of an unprecedented and severe drought and from a concurrent financial crisis. In consequence, Governor Bourke, when he landed on the 3rd of December, was received with a popular enthusiasm, which was partly reactionary. The batteries and shipping were decorated with flags, and the crews of the ships manned the yards as Bourke proceeded to the wharf. Here he was met by the acting governor, the chief justice, the archdeacon, the colonial secretary, the magistrates and civil officials, and a procession was formed and marched between lines of soldiers to government house amidst the cheers of the populace. Two days later, the town of Sydney was illuminated. An address† of welcome was presented; but, in acknowledging it, Governor Bourke committed a blunder. In the address, there was some drastic criticism of the administration of his predecessor, which he passed unnoticed.

Before or soon after the beginning of Governor Bourke's administration, great changes were made in the powers and patronage of the governor and in the method of administration. These changes removed many of the sources of the personal unpopularity of his predecessors and of the opposition to their administration. Henceforth the governor administered not so

* Richard Bourke was created a knight commander of the most honorable order of the Bath during his administration, *i.e.*, on the 26th of January, 1835.

† See note 135, volume XVI.

much by direct executive authority as by a guiding influence, and his personality and character were consequently less subject to criticism in times of popular agitations for reforms, and had less influence on affairs of state as the colony advanced and larger interests were involved.

The power of former governors to make land grants at their discretion, to decide on the merits of the applicants, and to determine the areas to be granted had been a source of constant friction between the governor and the settlers. If an application for a land grant was refused, the disappointed applicant thought the governor was unjust. If an applicant was granted one section or six hundred and forty acres, he might deeply resent it, considering he was entitled to two or more sections. If he was granted any area and his neighbour was granted a larger area, he might still be aggrieved thinking his claims were as good as those of his neighbour. It is evident that this power of former governors was an unfailing cause of discontent. In January, 1831, viscount Goderich decided* to abolish the power of the governor to grant land and substituted the system of selling crown lands. In this way, Governor Bourke was protected from a great source of unpopularity.

The patronage of the government given to the *Sydney Gazette* newspaper had been the cause of much ill-feeling during Governor Darling's administration. The *Sydney Gazette* held a monopoly in the printing and publication of all government notices and advertisements, and thereby was regarded in the popular idea as the government organ. Articles published in this newspaper, although not inspired by any official, were regarded as government propaganda. Such a system tended to convert the *Australian* and *Monitor* newspapers into papers with a policy to oppose the government. These two papers were thus frequently involved in a newspaper controversy with the *Sydney Gazette* on the merits and demerits of the government, with the result that the administration of Governor Darling suffered in public opinion. Governor Bourke removed this malicious influence by the establishment of a *Government Gazette*, which merely contained acts of council, public notices, etc., and no comments on the events of the day. He thus disassociated the government officially from all newspaper controversies. The first issue of this *Gazette* was published on the 7th of March, 1832.

* See page 22, volume XVI.

Another cause of discontent amongst the settlers was due to the assignment of convicts. The supply of convicts was usually insufficient to meet the demand for assigned servants, and those settlers, who did not receive the number or type of convicts desired, considered that they were unjustly treated. Prior to the arrival of Governor Darling, all assignments had been at the discretion of the governor, and thereby the governor held vast powers of patronage. In the year 1826, Governor Darling appointed a board to report on all applications for assignments, and, in the vast majority of cases, he did not interfere with the decisions of the board. But his interference in a few cases indirectly caused him to receive a proportion of the ill-will from all discontented applicants. In order to eliminate all suspicion of favouritism in such assignments, Governor Bourke established a series of regulations,* whereby the number of convicts to be assigned to any applicant was in proportion to the number of acres held and to the area under cultivation, exceptions being granted in the case of small farmers and in the assignment of mechanics. A limit was also placed on the number of convicts to be assigned to one proprietor. Although these regulations were opposed by persons who had benefited under the former system, their impartiality was soon admitted, and much ill-feeling was prevented.

By the statute, 2 and 3 Wm. IV, c. lxii, the power of the governor to grant tickets of leave † to convicts was restricted to those who had served certain specified periods of servitude. In this way, the patronage of the governor was limited in another sphere.

The long-continued struggle by emancipists to obtain full restoration to civil rights was virtually settled by an opinion, given by the judges of the supreme court at the request of the legislative council on the 8th of August, 1834. This important opinion was printed in the *Votes and Proceedings* of the council. The judges held that the following persons were eligible to sit on juries:—any person (not under outlawry or excommunication), attainted of any treason or felony or convicted of any crime that is infamous, who had obtained a free pardon; any person, convicted of felony punishable with death or otherwise, who had obtained a conditional pardon, the condition of which had been fulfilled; any person, convicted of felony not punishable with death, who had

* See page 750.

† See page 802, volume XVI.

endured the punishment adjudged for the same; any transportee, whose sentence had, before the 1st of January, 1824, been remitted by any governor; and all persons who, having been convicted of any transportable offence not being felony or such crime as is accounted in law infamous, had received an absolute pardon, or a conditional pardon and had performed the condition, or had endured the punishment for the same. By this decision, practically the whole class of emancipists were recognised as restored to full civil rights. As a result, the emancipist party, which had been formed during the administration of Governor Macquarie and had been one of the contending parties in all matters of public dispute since its formation, was gradually disintegrated from the want of a common bond of union, and was no longer of any importance in the public affairs of the colony.

One of the most important factors in the development of the Australian colonies was the encouragement of immigration, and the first systematic plans for this purpose were evolved during the administration of Governor Bourke.

The plans originated primarily from the necessity for relieving the distress prevalent amongst the agricultural labourers in the south of England in the year 1830. It was proposed to relieve the parishes by encouraging the immigration to the Australian colonies of the unemployed, and it was considered equitable that the colonies should contribute towards the expenses of such immigration.

The first definite proposals for assisted immigration were made by viscount Goderich in a despatch* dated 23rd January, 1831, nine months before the departure of Governor Darling; and, after receiving the despatch, some preliminary steps were taken by Darling in the months of July and August following.

Viscount Goderich proposed that the immigrants should be subsidised by funds raised in the colony, and that these funds should be provided by a tax upon the labour of convicts, by an extension of the sale of crown lands, by advances from settlers in return for the indenting of the labour of immigrants for a limited period, and by the abatement of the quit rents due on land grants in proportion to the number of immigrants the grantee might enable to reach the colony.

* See page 34 *et seq.*, volume XVI.

A tax of ten shillings *per annum* on each convict, assigned to private service in the colony, had been proposed for general purposes by the commissioners appointed in 1830 to enquire into the revenue and expenditure of the colony. Viscount Goderich proposed to appropriate the revenue from such a tax entirely to the purposes of immigration, to extend the tax to convicts holding tickets of leave, and to allow the governor and council to fix the amount of the tax at varying rates. He considered that the tax and its proposed appropriation would be advantageous by rendering the labour of convicts "less cheap to their employers" and thereby decreasing the demand for the assignment of convicts, and by increasing the supply of free labourers and thereby reducing the high rate of wages demanded in the colony. Governor Darling was in favour of the proposed tax.* He estimated the revenue from the tax on assigned servants on the basis of ten shillings *per head* at £6,000, and proposed a tax of five pounds on tradesmen holding tickets of leave and of one pound on labourers holding the same, which he estimated would produce a revenue of £5,000 to £6,000 *per annum*. The commissioners of emigration, when appointed, also supported the proposed tax. When Governor Bourke consulted the executive council in December, 1831, the council were of opinion† that the tax on assigned servants was inexpedient, "as the settlers in general have very large arrears to pay up both for the rent and purchase of land," and that the tax on convicts holding tickets of leave was impolitic, as it was a tax on free labour and diminished the boon of a ticket of leave. In consequence of the council's opinion, the tax was not imposed.

The second source of revenue, proposed by viscount Goderich, was from the extension of the sale of crown lands. This revenue was the ultimate source of the funds for the assistance of immigration; but, in proposing it, Goderich considered it the least valuable‡ of the proposed methods, expressing doubts whether any increase of revenue could be obtained, and regarding it as "a resource which will hereafter become available for the purposes of maintaining free labourers, should so large a number be sent out as to make it difficult to obtain employment for them."

The third proposed source was a fund created by contributions from the prospective employers of immigrants, and from grantees

* See pages 349 and 350, volume XVI. † See page 533, volume XVI.

‡ See page 36, volume XVI.

in return for the abatement of quit rents due on land grants. When the proposals were received in the colony, Governor Darling initiated inquiries* to ascertain the probable number of settlers who would provide funds in order to secure indented labour. After such inquiries, it was found that few settlers were in possession of the necessary funds or were in such assured positions as to justify the completion of any agreement. The proposal for the abatement of quit rents was announced in the colony by a government notice,† dated 26th August, 1831. This met with little response, as did a similar proposal‡ at a later date for the redemption of quit rents at ten years' purchase, owing to financial stringency in the colony and the high rate of interest charged for money.

Before any reply to these proposals was received from the colony, commissioners for the promotion of emigration from the United Kingdom were appointed on the 24th of June, 1831. No funds were placed at their disposal; but, if an adequate sum was raised by individuals or collected by parochial or other bodies to defray the expense of voluntary emigration, the commissioners were to undertake the management of the funds and to advise and assist the emigrants.

Whilst the problems of general immigration were under consideration, the necessity for relieving the disproportion of the sexes in the colony (the masculinity ratio being three to two) was considered. The policy adopted was the foundation of the system of immigration during Governor Bourke's administration. The under secretary of state enunciated it as follows in a letter to the lords commissioners of the treasury, dated 16th February, 1831:—“the funds derived from this source (the sale of Crown Lands) should be looked upon not as forming a part of the income of the Colony and available for the purpose of meeting the annual expenses, but as capital which should not be permanently sunk, but invested so as to produce a profitable return. As the best mode of investment, and in order to remedy what is so very serious an evil in its present condition (the disproportion of the sexes), Lord Goderich would propose, with the approbation of the Lords Commissioners of the Treasury, to apply the nett Revenue arising from the sale of land in encouraging the Emigration of females

* See pages 347 and 348, volume XVI. † See page 351, volume XVI.

‡ See page 650.

from this country. Their Lordships are doubtless aware how necessary it is for the moral improvement of the Colony to correct the existing disproportion of the sexes, which has produced such unhappy effects; but independently of this consideration, and in a mere financial point of view, the funds produced by the sale of land, if applied in the manner suggested, will be found to have been laid out in a most advantageous manner." The lords of the treasury approved of this policy, and, in September, 1831, authorised the appropriation of £10,000 for the purpose. The control of female emigration from the United Kingdom was placed under the commissioners for emigration, and, in October, 1831, regulations* were issued. By these regulations, each emigrant was offered the sum of £8, the estimated half of the passage money, on the difference being made up by herself.

The commissioners received many applications from mechanics and labourers desirous of emigrating; but strong objections were raised to the proposed indentures with employers in return for contributions towards the expenses of the passage to the colony. The objections were due to the fact that some private emigrants had signed indentures with employers to serve for a time at wages which, though higher than those obtainable in England, were found on arrival in the colony to be below the ordinary rate current. The commissioners thereupon proposed† that an advance of £20 *per* family towards the expenses of the voyage should be made to a limited number of mechanics, on the condition that it should be repaid out of wages after arrival in the colony. This proposal was approved by the lords of the treasury, and the advances were authorised out of the expected revenue from the proposed tax on the labour of convicts. For applying the new fund, regulations were issued by the commissioners on the 8th of November, 1831, together with a circular detailing the rates of wages in the colony, the prices of food, the expense of the voyage according to the age of the passenger, and other useful information. "One of the immediate effects produced by the information published by the Commissioners was to reduce the ordinary price of a passage for adults from £30 to £18 or £20, and for children in proportion, and thereby to remove one of the most serious impediments which had hitherto stood in the way of Emigration to these Colonies." As the tax on the labour of convicts was not imposed, the legislative

* See page 408, volume XVI.

† See page 413 *et seq.*, volume XVI.

council of the colony, on the 16th of March, 1832, voted the sum of £3,600 "to defray the expense of bringing out mechanics and labourers," and prepared a report* on the best mode of its appropriation.

Whilst these proposals for immigration were under consideration in England and the colony, the Reverend J. D. Lang successfully introduced from Scotland one hundred adult immigrants, almost exclusively mechanics with their families, in the ship *Stirling Castle*, which arrived at Sydney on the 13th of October, 1831. This venture was undertaken by Lang at his own personal risk, although he was assisted by a loan from government of £1,500 under special conditions.† The possibilities of assisted immigration on a large scale were thus first tested and proven by private enterprise. It must be noted that these immigrants arrived under promises to repay to Lang the cost of their immigration out of their wages, which promises were fulfilled. But few similar promises, made by immigrants assisted by government, were redeemed, as is noted later.

The immediate result of the labours of the commissioners for emigration was the arrival in the colony, a little over twelve months after their appointment, of ninety-seven mechanics, or inclusive of their families three hundred and seventeen persons, by various ships, and of two hundred and two females by the ship *Red Rover* from Ireland. The men were somewhat disappointed at the wages available, but found abundant employment. Difficulty was immediately anticipated in the collection of the advances made to them, a difficulty which was soon realised. The female immigrants on arrival at Sydney were accommodated at the old lumber yard. They arrived on the 13th of August, 1832, and within six weeks all except fourteen had obtained employment, with the advice and assistance of some of the ladies of Sydney. After their arrival, Governor Bourke reported that it was probable that between four and five hundred female immigrants could be absorbed annually.

The board of commissioners, having completed the first steps towards the promotion of immigration, were relieved from their duties by the secretary of state on the 4th of August, 1832. The commissioners were the earl of Richmond, viscount Howick,

* See page 609 *et seq.*, volume XVI.

† See pages 224 and 258, volume XVI.

H. Ellis, R. W. Hay and F. Baring. A committee of the legislative council in 1835 reported that "the services, which they rendered to the cause of Emigration generally and more especially to these Colonies, have been great and important. By diffusing information, and promoting Emigration, under the guarantee afforded by their high stations and established character, they removed a great deal of the prejudice which had prevailed against the Australian Colonies, and succeeded in directing towards them a part of that Emigration which before had flowed almost exclusively to North America."

Upon the dissolution of the board of commissioners, a committee of private gentlemen under the chairmanship of E. Forster were induced, at the request of the secretary of state, to undertake the selection of suitable young women as immigrants. These women were sent out in the ships *Bussorah Merchant* and *Layton* in 1833, and in the ship *David Scott* in 1834. The ship *Duchess of Northumberland* arrived with immigrants from Ireland in 1835. The cost of these immigrants was £17 *per* head, of which the government provided £12, and the immigrant paid £5 on embarkation, or gave a promissory note for £6 to be redeemed in the colony. The selection of these immigrants was faulty. The owners of the first two ships were given "much latitude in collecting persons of the description required," although certificates of respectability were obtained from clergymen or other responsible persons. "It was unfortunately so much the interest of Ship-owners to look to numbers rather than to the qualifications of the Candidates for Loans and Bounties that no means were neglected, by which Passengers could be obtained; and Agents were consequently dispersed throughout the Country to induce Persons, who might not otherwise be disposed to come forward, to avail themselves of the proffered assistance."* Such a system naturally led to the introduction of some very undesirable immigrants, amongst them being common prostitutes. To check this evil, an agent was appointed at Liverpool, the principal port of embarkation, "to investigate the Characters and circumstances of all Applicants for the Loans and Bounties" in England, and John Marshall was appointed agent to the committee. The emigration of females from Ireland was under the Irish government.

The supervision of the immigrants on arrival in the colony was undertaken by a committee of the archdeacon, the colonial

* See page 173.

secretary, the colonial treasurer and the collector of internal revenue, assisted by a ladies' committee; but, after the ship *Bus-sorah Merchant* arrived, the character of the immigrants was so bad that the ladies' committee were compelled to withdraw.* An *Emigrants' friend* society was established in Sydney to advise and assist the immigrants, with W. Macpherson as secretary.

To the female immigrants by the ships mentioned, the sum of £2,075 was advanced on loan. During the period these females were arriving, a number of male immigrants with their families reached the colony by various ships, assisted by advances on loan to the amount of £7,670. For these advances, promissory notes were given payable in the colony six months after date. The difficulty in collecting the amounts due under these promissory notes was realised in the beginning, and it was found to be quite impracticable at the end. W. Macpherson, the collector of internal revenue, in whose hands the notes were placed, reported that, of the sums mentioned above, to May, 1835, only £167 3s. 2d. was recovered from the male immigrants, and none at all from the females. It was found impossible to prove the handwriting on the notes in many cases. It was difficult to trace the drawers in other cases, as the immigrants were scattered over the two colonies of New South Wales and Tasmania, in New Zealand and elsewhere. Many of the females also were under age and could not legally be compelled to pay. Macpherson estimated that he might recover a fourth or a third of the advances by legal proceedings, and by the most severe measures a half; "but what the effect on Emigration would be of the imprisonment of some hundred persons, and among them many young women, for the non-payment of debts contracted to Government for their passages to the Colony, may be easily imagined."

Owing to these difficulties, the secretary of state in February, 1835, decided† to grant free passages to suitable female immigrants, and to remit all claims under promissory notes given by former immigrants.

On the 28th of October, 1835, a notice‡ was issued in the colony, offering bounties to private settlers for the introduction of mechanics, farm-labourers, etc., as immigrants, provided they arrived in the colony before a specified date. This notice was renewed under dates 28th March and 18th October, 1836.

* See page 725. † See page 667 *et seq.* ‡ See volume XVIII.

In October, 1835, Sir Richard Bourke submitted proposals to the secretary of state for the employment of naval surgeons to select and bring out suitable male immigrants; and, a few months later, he nominated D. Boyter and A. Osborne for this purpose. In acknowledging these despatches, lord Glenelg, in a despatch dated 18th September, 1836, stated that it had been determined to supersede the system of exclusive female emigration, and to grant bounties of £30 for each married couple, of £5 for each of their children between two and seven years, of £10 for each between seven and fifteen, of £15 for each unmarried daughter between fifteen and thirty, and a similar bounty for any unmarried female between eighteen and thirty under the protection of the married couple. The nominations of Boyter and Osborne to select these immigrants were approved. The first vessels to arrive under this plan were the *John Barry* from Dundee, and the *Adam Lodge* from Londonderry.

In a despatch dated 23rd March, 1837, lord Glenelg decided to appropriate two-thirds of the land revenues for the financing of immigrants under bounties from the United Kingdom, leaving one-third of the revenue for financing the immigrants under the government notice of October, 1835.

In August, 1837, a committee of the legislative council recommended the appropriation of this one-third to the payment of bounties as follows:—for a married couple without family, £36; for each unmarried male, £18; for each unmarried female £18; for children from seven to fourteen years £10; and for children from one to seven years £5.

A practical system for general immigration was thus fully established during the administration of Governor Bourke. During the years 1832-1836 inclusive, two thousand and fifty-two females, and families numbering seventeen hundred and seventy-eight persons in all arrived in the colony under the bounties ordered by the secretary of state, and fifty men, women and children under the bounties granted by the government notice of October, 1835. In addition to these assisted immigrants, five thousand, four hundred and twenty-two free and unassisted immigrants arrived during the same years. The whole expenditure on immigration during Governor Bourke's administration amounted to £91,167 13s. 2d., which was paid out of the land revenues of the colony.

Probably the most important act in Governor Bourke's administration was the introduction of state aid equally to all religions, irrespective of denominations, and this was primarily due to his own advocacy. The imperial statute for "the relief of His Majesty's Roman Catholic subjects" was adopted by the act of council, 10 Geo. IV, No. 9, passed on the 18th of January, 1830. Religious tolerance was thereby an established principle in the colony, and some little state support had been given to the Presbyterian and Roman Catholic churches before the arrival of Governor Bourke; but this support was not proportionate to the number of adherents of the respective churches. In a despatch* dated 30th September, 1833, Governor Bourke drew attention to this subject. He stated that the estimated expenditure for the year 1834 from the colonial treasury on the church of England, was £11,542 10s., on the church of Scotland £600, on the church of Rome £1,500, and on the Protestant dissenting churches nothing; but yet he estimated the Roman Catholics as forming one-fifth of the entire population. He stated that public opinion† was adverse to such undue preference for the church of England in the expenditure of public funds, which were raised by taxes levied on persons of all denominations. He advocated the claims of all the churches and of every congregation of dissenters and of Jews. He proposed the granting of a pound for pound subsidy on all moneys collected for the erection of churches or of parsonages, provided the sum was not less than £300. He proposed that stipends should be granted to clergy of any denomination on the following scale; if the congregation numbered one hundred adults, £100 *per annum*; if there were two hundred adults, £150; and if there were five hundred adults, £200, which was proposed as the maximum salary. He suggested‡ that a bishop should be appointed for the church of England; that a presbytery should be constituted for the church of Scotland; and that an increased salary should be granted to the vicar-general for the church of Rome. By these measures, he hoped to establish complete religious tolerance in the colony.

Owing to successive changes in the British government, this despatch was not acknowledged‡ until the 30th of November, 1835, when the secretary of state gave a general approval of the proposed state aid to religion, leaving it to the governor and the legislative council to enact the details.

* See page 224 *et seq.* † See note 95. ‡ See volume XVIII.

On the 29th of July, 1836, the legislative council passed the act, 7 Wm. IV, No. 3, "to promote the building of Churches and Chapels, and to provide for the maintenance of Ministers of Religion in New South Wales." By section 1, the governor with the advice of the executive council was authorised to grant a pound for pound subsidy on all sums, subscribed for the erection of churches, chapels and parsonages, provided the subsidy was not less than £300 nor more than £1,000. By section 2, authority was given for the payment of stipends on the scale proposed in Governor Bourke's despatch. By section 3, a discretionary power was given for the payment of stipends, where the congregation did not number one hundred adults. By section 4, provision was made for the increase of stipends on the increase of congregations. No religion or denomination was mentioned, and all religions and denominations participated alike in the benefits of the act. The state aid to the clergy continued until the passing of the act, 26 Vic., No. 19, which was reserved on the 20th of December, 1862, until the royal assent was proclaimed on the 21st of July, 1863.

Probably no act of the first eight governors of the colony had such an extended influence as the passing of this act of council on the initiative of Governor Bourke.

In the introduction to volume XVIII, the changes in the legislative and judicial administrations and the foundation of the settlement at Port Phillip during the government of R. Bourke are noted.

FREDK. WATSON.

June, 1923.

DESPATCHES.

HISTORICAL RECORDS

OF

AUSTRALIA.

SERIES I.

THE SECRETARY OF STATE TO GOVERNOR BOURKE.

1833.

THE following despatches,* written in the year 1833, have been Despatches omitted:—

Despatch dated	numbered	Transmitting
6th February	150	pardon for John Wilde.
23rd June	19	approval for thirty-five conditional pardons.
4th July	23	instructions for pardon to Edmond Coneely after serving seven years.
24th July	28	particulars of sentences on two convicts named Cassidy.
20th August	32	approval of two free and six conditional pardons.
21st August	34	list of eleven convicts <i>per ship Lloyds</i> to be worked in irons.
16th September	41	warrant for conditional pardon for George Gray provided he remained in Australian colonies.
24th October	49	refusal of proposed ticket of leave for William Howard.

UNDER SECRETARY OF STATE TO GOVERNOR DARLING.

THE following despatches,* written in the year 1833, have been omitted:—

Despatch dated	Transmitting
24th March	introduction for — Ley.
10th June	„ „ F. Bedwell, lieut., R.N.
29th August	request for report on fate of Margaret Gordon, convict.
2nd July	petition for indulgence for John Callighan, convict.
1st September	particulars <i>re</i> William Price, convict <i>per ship Lloyds</i> .
23rd November	request for report on conduct of William Nixon Wright, convict.

1833.

ASSIGNMENTS OF CONVICTS.

Assignments
of convicts.

DURING the year 1833, letters, which enclosed the assignments of convicts (not available) *per* the ships named, were written by the under secretary of state for the colonies to Governor Darling, with dates as under:—

Date of letter.	Ship's name.	No. of convicts.
6th February ..	Asia	230 Male.
11th March	Waterloo	214 do.
3rd May	Captain Cook	230 do.
4th May	Buffalo	180 Female.
7th May	Heroine	260 Male.
30th May	Lord Lynedock	330 do.
3rd July	Aurora	300 do.
27th July	Neva	170 do.
21st August	Lloyds	200 do.
22nd August	Amphitrite	100 Female.
14th October	Fairlie	376 Male.
3rd December ..	Numa	140 Female.

GOVERNOR BOURKE TO SECRETARY OF STATE.

Despatches
omitted.

THE following despatches,* written in the year 1833, have been omitted:—

dated	Despatch numbered	Transmitting
1st January	1	annual return of "state of crime and punishment."
4th January	3	reasons for refusal to grant free pardon to Samuel Marriott, convict.
7th January	6	report <i>re</i> George Stewart, convict.
8th January	7	return of intestate estates.
19th January	10	report <i>re</i> alleged error in indent papers of Thomas Philip and Edward Cassidy, convicts.
21st January	11	petition from — Smets, convict, for remission of sentence.
22nd January	12	minutes of executive council for half-year to December, 1832.
7th February	20	six conditional pardons for approval.
8th February	21	two absolute pardons for approval.
8th February	22	quarterly statement to 30th September, 1832, of expenditure from military chest.
1st March	24	do. to 31st December, 1832.
4th March	25	returns of tickets of leave and escaped convicts.
7th March	26	return of ninety-eight convicts applying for passages for wives and families.
8th March	27	return of pardons granted in year 1832.
11th March	28	recommendation of George Gray for conditional pardon for capture of — Lockhart, an armed murderer.
23rd March	34	returns of expenditure of medicines and persons under medical treatment.
6th May	44	return of intestate estates.
15th May	47	returns of assigned servants and applications for same.

* Note 1.

THE following despatches, written in 1833, have been omitted—
continued.

1833.

Despatches omitted.

Despatch dated	Despatch numbered	Transmitting
15th May	48	petition from William Howard for ticket of leave.
17th May	50	quarterly statement to 31st March, 1833, of expenditure from military chest.
6th August	62	comparative statements of revenues for 1831 and 1832.
6th August	63	one conditional pardon for approval.
21st August	67	"blue book" for year 1832.
23rd September	70	list of convicts recommended for tickets of leave.
27th September	72	quarterly statement to 30th June, 1833, of expenditure from military chest.
29th September	74	report on botanical gardens.
2nd October	80	return of intestate estates.
4th December	96	" " " "
6th December	102	minutes of executive council for half-year to June, 1833.
6th December	103	schedules of expenditure from military chest to 30th September, 1833.

GOVERNOR BOURKE TO UNDER SECRETARY OF STATE.

THE following despatches,* written in the year 1833, have been omitted:—

Despatch dated	Transmitting
1st January	report <i>re</i> grant of conditional pardon to James Wood.
11th March	schedule of despatches.
15th March	report <i>re</i> intestate effects of Francis MacNamara, convict.
16th May	" <i>re</i> Richard Beardsley, convict.
4th August	" <i>re</i> Sylvester Thornton, convict.
18th August	" <i>re</i> William Chadwick, convict.
18th August	" <i>re</i> Thomas Black, convict.
22nd November	returns of deaths and escape of convicts.
5th December	report <i>re</i> Thomas Hewitt, convict.

GOVERNOR BOURKE TO VISCOUNT GODERICH.

(Despatch No. 2, per ship Brothers; acknowledged by right hon. E. G. Stanley, 6th June, 1833.)

My Lord, Government House, 2nd January, 1833.

2 Jan.

In obedience to the commands contained in Your Lordship's Despatch of the 10th Decr., 1831, No. 43, I have the honor to transmit herewith a Return of the names and Rank of Military Officers on Half Pay holding Civil employments in this Colony, showing the Salary and emoluments of such employments and the date of the appointment of the Officers thereto.

Transmission of return.

I have, &c.,

RICHD. BOURKE.

* Note 1.

1833.
2 Jan.Return of
military officers
on half-pay
holding civil
appointments.

[Enclosure.]

RETURN of the Names and Rank of Military Officers on Half Pay, holding Civil Appointments in the Colony of New South Wales, shewing the Salary and Emoluments of such Employments, and the Date of the appointment of the Officers thereto.

No.	Military Service.		Civil Service.				Remarks.
	Rank.	Employment.	Date of Appointment.	Salary per Annum.	Allowances.		
1	James Thomas Morriset	Lieutenant Colonel	1827. 12 May	£ s. d. 600 0 0	A House.		
2	Thomas Livingstone Mitchell	Major, Unattached	1828. 27 May	1,000 0 0	None		
3	Francis Nicholas Rossi	Captain	1825. 12 May	600 0 0	A House to be relinquished on 1st March.		
4	Henry Golden Antill	Captain, New Brunswick Fencibles.	1829. 1 July	150 0 0	None	Do not draw Half Pay.	
5	William Lithgow	Commissary General.	1825. 8 Novemr	650 0 0	None		
6	Lachlan Macalister	Lieutenant 48th Regiment.	1829. 28 Sept.	209 17 6	£50 per annum in lieu of Quarters, and 2/6 per diem in lieu of forage for a horse.		
7	Percy Simpson	Lieutenant	1828. 16 June	220 0 0	2/6 per diem in lieu of Forage for a Horse.		
8	James Mitchell	Assistant Surgeon 48th Regiment.	1829. 1 Jan.	273 15 0	Quarters, and ditto		
9	Robert Hoddle	Attached to the Corps of Royal Military Surveyors and Draftsmen.	1828. 1 Jan.	380 0 0	2/6 per diem in lieu of Forage for a Horse.	Do not draw Half Pay.	
10	Mortimer William Lewis	ditto	1 Jan.	240 0 0	Ditto		

ALEX. McLEAY, Colonial Secretary.

GOVERNOR BOURKE TO VISCOUNT GODERICH.

1833.
4 Jan.(Despatch No. 4, per ship Brothers; acknowledged by
right hon. E. G. Stanley, 26th June, 1833.)

My Lord, Government House, 4th January, 1833.

I have the honor to inform Your Lordship that two vacancies in the Surveyor General's Department have lately occurred, the one by the removal of Mr. Rogers, who had got into Debt and into Gaol, and was otherwise unsuited for employment, and the second by the resignation of Mr. Finch. I do not propose to fill up either of these Vacancies; but, for the efficient discharge of a necessary and important duty in the Road Branch of the Surveyor General's Department, I have appointed, subject to Your Lordship's approval, Mr. David Lennox to be Superintendent of Bridges at the Salary of £120 a year, being about half of the Rate paid to an Assistant Surveyor. The Surveyor General is of opinion, in which I concur, that it may be advantageous and possible to substitute Practical Men of the description of Mr. Lennox in the place of some of the Assistant Surveyors now employed on the Roads. It will I think be adviseable to reduce two of these Assist. Surveyors in the course of this year, and I hope Your Lordship will approve of my introducing into the Road Branch one or two Persons more of practical experience in Road making, with the same amount of Salary as that paid to Mr. Lennox, upon such persons presenting themselves for employment in this Colony.

Vacancies
in surveyor-
general's
department.Appointment of
D. Lennox as
superintendent
of bridges.Proposed
changes.

I have, &c.,

RICHD. BOURKE.

GOVERNOR BOURKE TO VISCOUNT GODERICH.

(Despatch No. 5, per ship Brothers; acknowledged by
right hon. E. G. Stanley, 20th July, 1833.)

My Lord, Government House, 5th January, 1833.

5 Jan.

With reference to Your Lordship's Despatch No. 39, dated 26th October, 1831, I have the honor to transmit herewith the Report of a Medical Officer upon the injuries sustained by Constable Geary in a conflict with Bush Rangers in the County of Bathurst, in consideration of which and of his conduct on the occasion he had received from General Darling a Conditional Pardon and a Pension* of 1 Shilling a day. As the Physician by whom he has been examined states Geary's arm to continue still paralytic and unserviceable, I have directed the pension to be continued to him for one year from the 1st of August last, at the expiration of which time I shall require another Report.

Transmission
of medical
report.Pension for
D. Geary.

I have, &c.,

RICHD. BOURKE.

* Note 2.

1833.
5 Jan.

[Enclosure.]

MR. A. GIBSON TO COLONIAL SECRETARY MACLEAY.

Sir, Goulburn, Argyle, 25th July, 1832.

Medical report
on D. Geary.

In compliance with the Instructions of His Excellency the Governor contained in your letter of the 9th Instant, I beg leave to Report, for His Excellency's information, that I have examined Daniel Geary, late Constable at this place, and find that his left arm still continues Paralytic and unserviceable in consequence of the wounds which he received in the Conflict with the Bathurst Insurgents. At the same time as it appears evident that some improvement has taken place in the state of Geary's Arm and general health, since the date of my former report, I think it very probable that the injury may not prove of a permanent nature.

I have, &c.,
ANDW. GIBSON.

GOVERNOR BOURKE TO UNDER SECRETARY HAY.

(Despatch per ship Brothers.)

Sir, Government House, 5th January, 1833.

Decision by
R. Darling
re claims of
J. H. Reibey
and J. Atkinson.

In reply to your letter 3rd May last, desiring me to enquire into the claims of Messrs. Reiby and Atkinson, and referring me to Secretary Sir George Murray's despatch No. 45, 9th June, 1830, addressed to my Predecessor, I have the honor to inform you that General Darling, after an investigation of the claims of those Gentlemen, came to this decision, Viz.:

"That Messrs. Reiby and Atkinson should receive one Square Mile of Land free of Quit Rent as a donation from the Government in consideration of their loss, but not as a compensation, as such a precedent would have a bad effect, and they have no claim thereto."

I have further to state that Messrs. Reiby and Atkinson are both settled in Van Diemen's Land, and that I have in conformity to your Instructions requested Lieut. Governor Arthur to make these Gentlemen a grant of one Square Mile of Land free of Quit Rent in that Colony.

I have, &c.,
RICHD. BOURKE.

GOVERNOR BOURKE TO UNDER SECRETARY HAY.

(Despatch per ship Brothers; acknowledged by under secretary Lefevre, 30th August, 1833.)

6 Jan.

Sir, Government House, 6th January, 1833.

Transmission
of letter from
W. H. Moore.

In obedience to the directions contained in your letter of the 10th March last, I directed Mr. Moore, as Executor of the late Mr. Mills formerly Registrar of the Supreme Court of this Colony, to be called upon for a statement of the affairs of that

gentleman and to be requested to transmit to the friends of Mr. Mills any private papers belonging to him of which he might be in possession.

1833.
6 Jan.

In reply I have received from Mr. Moore the communication of which I now forward a Copy.

I have, &c.,

RICHD. BOURKE.

[Enclosure.]

MR. W. H. MOORE TO COLONIAL SECRETARY MACLEAY.

Sir,

George Street, Sydney, 19th December, 1832.

Statement by
W. H. Moore
re estate of
G. G. Mills.

In answer to your letters of 7th September last and 14th Instant, respecting the application of Mr. Appleyard for a Statement of the affairs of the late Col. Mills and for his private papers:

I have the honor to acquaint you, for the information of His Excellency and of Mr. Appleyard, that his Estate has only as yet paid his Creditors the sum of five shillings in the pound on their respective Claims. I have after great difficulty lately succeeded in disposing of his Farms at Hunters River for £640 at the long Credits of Six, twelve, eighteen, and twenty four months; and, after the expenses of Sale, quit Rents, Discounts of these securities, Testamentary and other charges are paid, I do not Contemplate that enough will be left to afford a greater Dividend than Seven Shillings more in the pound to the Creditors here; with respect to the private papers of the late Col. Mills, I have always understood that Mr. Appleyard was informed shortly after his Death that no private papers whatever of any import Could be found. From the Statements of his Servants, the Colonel had been employed during several of his last days in tearing and burning every paper of a private Nature in his possession, the remains of which were afterwards visible to everyone; and, with the exception of an old Pocket Book containing Some Memoranda and Accounts of petty expenses apparently during a tour on the Continent, the draft of a letter to Lord Goderich, the Subject of which was I know pressing very heavily on his mind at the time he destroyed himself, and several Tradesmen's Accounts, no other papers whatever could be discovered.

I beg leave to state for the information of His Excellency that I always understood from Col. Mills, with whom I was very intimate, that he had a Considerable Sum of Money in the hands of Mr. Appleyard, arising (I believe principally), as I understood him, from an Annuity which had fallen in Consequence of the Death of his Wife, the news of which event he Communicated to me on its arrival some time before; but I have now no data as to the period of its having happened. Shortly before his Death, he drew Bills of Exchange for £350 on Mr. Appleyard on the Credit of the Monies he so Stated were in Mr. Appleyard's hands, and deposited these Bills at the Bank of Australia to negotiate for his procuring the Money; but, from some delay that took place there, the Bills remained at the Bank until after his Death. As the Settlement of his affairs was in my hands, I caused these Bills to be forwarded to England not for a Moment doubting that they would be paid, and which would about have Settled all claims on him in the Colony; but they were returned unaccepted and unpaid by Mr. Appleyard without any explanation whatever on his part as to their dishonor, or any Statement as to whether or not any or what Sum of Money was in his hands belonging to the late Colonel.

Moneys claimed
by G. G. Mills
in England.

1833.

6 Jan.

Accounts to be
filed in court.

I mention the last Circumstance as a reason for my saying that I do not think Mr. Appleyard is *ex gratia* entitled to expect of Me a Statement of Accounts, at the same time that he is withholding from me and the Creditors of the Estate here a similar statement on his part. I do not intend to say I shall refuse anything of the kind; but, until I have arranged for the sale of the Land, I cannot Complete my Accounts of the Estate to file in the Supreme Court, which I am under a Bond to do; and I shall then have no objection to furnish him with Copies of My Accounts of the Estate; but at present I have neither an inclination to incur the expense of procuring Certified Copies of all the Accounts or the means of defraying the Charges of so doing.

I have, &c.,

W. H. MOORE.

UNDER SECRETARY HAY TO GOVERNOR BOURKE.

(Despatch per ship Asia.)

9 Jan.

Transmission of
correspondence
with
T. P. Macqueen.

My dear Sir,

Downing Street, 9 Jan., 1833.

Reports to be
submitted.

Lord Goderich has directed me to transmit to you copies of a correspondence, which has passed with Mr. Potter Macqueen on the subject of the Quit-rent, which the Colonial Government have lately demanded upon an additional Grant of land promised to him by the late Mr. Huskisson. The papers will shew the view, which has been taken of this case; but Lord Goderich wishes to receive from you a report, in respect to that part in which Mr. McQueen alleges that the Rent has been charged under different Regulations from those in force when he got the land.

At the same time, it is desirable that we should be furnished with precise information as to the course, which has been pursued with respect to *each application* which Mr. Macqueen has made from time to time for land, so that we may be enabled to answer positively any complaints which he may here after make. You will, therefore, have the goodness to cause a Memorandum to be drawn up of the main facts, with as little delay as possible.

I remain, &c.,

R. W. HAY.

[Enclosure No. 1.]

MR. T. POTTER MACQUEEN TO UNDER SECRETARY HAY.

My dear Sir,

University Club, London, 7th Sept., 1832.

Lands
granted to
T. P. Macqueen.

In consequence of important letters from my Australian Agent, I called on you some days since; in your absence I communicated with Mr. Short who will probably inform you of what passed. It may be in your recollection that to complete the *entire* locations of my property and to bring it up to a range of High Hills forming my South West Boundary, a range of Land, useless to any other person inasmuch as inaccessible unless by a road over my grants, was ordered by Lord Bathurst to be made over to me; that afterwards, when Mr. Huskisson came into office, finding that I had considerable balance in my favor on the original grant of 20,000 Acres.

in consequence of my having employed Many More Convicts than necessary for the discharge of the entire quit-rent, I applied for permission to make such excess a sett-off for the new scale of Quit rent then proposed. *The result you will find stated in my letter to Mr. McLeay, a copy of which I subjoin and which I wrote at Mr. Short's suggestion.* That new Brooms sweep clean is an adage of long standing; but I really hope in this instance they will not be permitted to brush away every previous compact and every little encouragement held out to induce outlay and expenditure. You will see that this impost is a quit rent of 2s. 8d. per acre, to *begin before* one shilling can be derived from the property, Whereas the clear understanding was *that 7 years should be allowed* previous to the commencement of the operation of the quit rent. Mr. McLeay has *enforced* this payment which my Agents has made under Protest.

1833.
9 Jan.

Application
re quit rent.

I really must earnestly beg the protection of Government against this act of flagrant injustice and direct breach of engagement.

I am, &c.,

T. POTTER MACQUEEN.

[Enclosure No. 2.]

MR. T. POTTER MACQUEEN TO COLONIAL SECRETARY MACLEAY.

Sir,

London, 1st Septr., 1832.

By a letter received from my Agent Mr. K. Sempill, I learn that a claim for Quit Rents to a yearly extent £71 4s. 8d. has been enforced on the 25th of March last, as chargeable on a Grant of 3,825 acres of Land situated in the Counties of Durham and Gloucester.

Quit rents
levied on
grants to
T. P. Macqueen.

In the Year 1824, when Lords Liverpool and Bathurst rendered me the free Grant* of 20,000 acres of Land as compensation for Expectations held out by them to me but never realized, The only condition annexed was the employment of Convicts at a fixed value of £16 per head, so as to fulfill the very moderate Quit Rent then imposed. By the Return made by my Agent, Mr. McIntyre, in the years 1826, 27, 28, it appeared that the aggregate sum so paid was so much greater than the original Contract, that a large balance was then in my favor. I made this Statement to Mr. Secretary Huskisson and expressed my hope that the balance admitted as part payment of the new Grants in the shape of Quit Rents in advance. Mr. Huskisson at once admitted the justice of my claims and promised to make further enquiries, but observed there would be ample time to consider the subject, as the Quit Rent *would not be demanded until 7 years after the measuring out the Land in question.* It was on this distinct understanding that the 2 Grants in question were made in Downing Street. And I therefore trust you will admit that the charges ought not to commence until the period assigned, and that *then* they shall be liquidated by the balance in my favor of Employment to Convicts.

Conditions of
land grants.

It is peculiarly to be lamented that the practical part of Australian Government is so very different from the Theoretical Assurances held forth in Downing Street, that the directions made in the latter place are either evaded or protested against in the Colony. Thus, tho' I have been, by consecutive Chief Secretary's, promised every encouragement generally and Grants in the Harbour

Criticism
of colonial
administration.

* Note 3.

1833.
9 Jan.

of Sydney and Town locations in Maitland *specifically*, still these intentions have ever been neutralised and I deprived of the anticipated benefits.

I send a Copy of this letter to Lord Goderich, and I am convinced I am stating no more than the fact, when I assert that the Home Government feel every disposition that the promises, heretofore made but never realized, should be performed without further doubt or procrastination.

I am, &c.,

T. POTTER MACQUEEN.

[Enclosure No. 3.]

UNDER SECRETARY HAY TO MR. T. POTTER MACQUEEN.

My dear Sir,

Downing Street, 21st Oct., 1833.

Letter
acknowledged.

I have to apologise to you for allowing your letter of the 7th of September to stand over so long without a reply; but, having been out of Town for some part of the time and much engaged by other matters since my return, I have not been able, at an earlier period, to bring the subject of it under the consideration of the Secretary of State; Lord Goderich having examined all the Correspondence connected with the Grant of Land directed to be made to you in the year 1823, and to the additional Tract afterwards authorised, I regret to acquaint you that his Lordship does not consider that any grounds exist for his interference in relieving you from the payment on account of Quit rent, with which the Land alluded to in your letter has been deemed chargeable by the Colonial Government. In every Grant which has been authorised in your favor by the successive Secretaries of State, its liability to the *usual conditions* has always been reserved; and as, according to the Regulations existing when the addition in question was made to your property in New South Wales, all Grants, in extension, are subject to the payment of Quit rent immediately upon the parties entering into possession, Lord Goderich can not admit your claim to be relieved from a payment to which all other parties are liable. Certainly you alone are capable of stating what passed between you and Mr. Huskisson on the subject of the set off against this Quit-rent on account of the excess of Convicts employed upon your lands; but, as no Instructions to that effect were given by Mr. Huskisson in conformity with any promise which he may have held out to you, and as claims of a similar nature brought forward by the Australian and Van Diemen's Land Companies, as well as other settlers, were rejected as being wholly inadmissible, Lord Goderich does not feel at liberty to allow you to benefit by such an arrangement.

I am, &c.,

R. W. HAY.

[Enclosure No. 4.]

MR. T. POTTER MACQUEEN TO UNDER SECRETARY HAY.

Sir,

16 Suffolk Street, 4th Decr., 1833.

Letter
acknowledged.

I have the honor to acknowledge the receipt of your letter of the 21st of October last in reply to my application of the 7th of September preceding on the subject of the late extortion of Quit Rent on my Australian Property.

I regret that my absence on the Continent has prevented my noticing your communication at an earlier period.

It appears to me that Lord Goderich has entirely misapprehended the nature of my application, and I therefore renew the leading object I have in view.

1833.
9 Jan.

The minutes of the Colonial Office will shew that, in the year 1827, in consequence of a representation made by me that certain lands in the Countries of Gloucester and Durham in New South Wales were so situated as to range necessarily with my Estate so as to give me the Berrier of the Hills on the one side and the river Hunter on the other, Mr. Huskisson was pleased to direct that these Lands, so pointed out on the Maps I brought before him, should be measured and disposed of to me under the then existing Regulations respecting the disposition of sales. He was induced to do so from a kind feeling that the Lands in question were essentially necessary to render my Estate compact, to prevent other small Settlers harassing me, and to enable me to avail myself of natural boundaries instead of being compelled to incur the expences of raising *artificial* ones.

Negotiations re
land grants.

The Lands so ordered to be assigned were given up to my resident Agent in 1828-9, subject to *the then existing Regulations*.

The distinct condition of those Regulations was that a free occupancy for Seven years was permitted, at the close of which period I should be allowed to purchase on an estimated value of 20 Years.

On the strength of this Regulation, duly proceeding from Downing Street, I have taken possession, made my improvements, and considered myself the Proprietor.

The Regulations under which Mr. McLeay has most improperly obtained the sum of £35 12s, 6d, were not made known until 1830-31. He has therefore most fraudulently obtained this Sum (and probably the additional moiety in the present month) under the pretence that a Law, made by the *Colonial Office and not by Act of Parliament* in the year 1831, shall effect Capital Grants made in the year 1827 under avowed Regulations of a distinctly different nature. I therefore have to request that immediate orders be sent to the Governor of New South Wales, directing the repayment of any sums so unfairly obtained together with Interest from the period of such illegal Transactions having been accomplished.

Quit rent
collected by
A. Macleay.

I have, &c.,

T. POTTER MACQUEEN.

I beg to hand you the extraordinary Document, which was the Instrument by which this Sum of Money was extorted. You will please to return it to me.

[Enclosure No. 5.]

UNDER SECRETARY HAY TO MR. T. POTTER MACQUEEN.

Sir,

Downing Street, 29th Decr., 1832.

I have received and laid before Lord Goderich your letter of the 4th Instant, in which you again bring under his consideration the subject of the Quit-rent upon a Grant of Land, which was allotted to you in addition to your original Grant, and which Quit-rent you allege to have been demanded by the Government of New South Wales sooner than was required by the Regulations under which you obtained the Land in question. Lord Goderich having carefully examined the whole of the correspondence which has passed between this Office and yourself, respecting your various applications for Tracts of Land in the above Colony, as well as the respective Instructions to the Governor upon the subject, his

Letter
acknowledged.

1833.

9 Jan.

Quit rents on
additional
grants.

Lordship has directed me to inform you that he finds himself compelled to adhere to the decision already communicated to you, that the Quit Rent upon this Land was payable, according to the Regulations, from the date of your obtaining possession of it, and therefore that the Colonial Government were fully warranted in demanding it. You allege that the Quit rent was not required by the Regulations to commence until after the expiration of seven years from the date of occupation since Novr., 1824. However, the Regulations have invariably *prescribed* that, in all cases of additional Grants (which the land in question undoubtedly was), the Quit rent should be charged from the date of possession being given of such additional Grant. In the despatch* to the Governor authorising him to allot to you the land, no mention is made of any intention to relieve you from the operation of the Regulations, in respect to Quit rent, neither is there any record of its having been contemplated by the Secretary of State.

You appear to be mistaken in supposing that this Quit Rent has been demanded under Regulations made subsequently to the date at which you acquired the Land. Lord Goderich apprehends that you refer to a Regulation, which was passed, when the system of granting Lands upon Quit-rent was abolished, with a view to recover the Arrears of Rent, which had already become due, but which the parties had neglected to pay. To prevent any mistake, however, upon this point, the Governor will be directed to investigate the matter and report to the Secretary of State the result.

Lord Goderich cannot but observe that, in your late letters to this office, you have suffered yourself to indulge in reflections upon the Local Government generally and upon Mr. McLeay personally, which the facts of the case did not warrant. In all the despatches to the Governor (as you have been repeatedly informed), it was left to him to determine whether there were any objections of a public nature, which ought to prevent your receiving the indulgence you solicited, the Colonial Government alone being competent to form a correct opinion on that point.

I am, &c.,

R. W. HAY.

P.S.—At your request, I return you the original letter of the Collector of Internal Revenue to your Agent, in which the former applied for the Quit-rent.

R.W.H.

[Enclosure No. 6.]

MR. T. POTTER MACQUEEN TO UNDER SECRETARY HAY.

My dear Sir,

16 Suffolk Street, 1st Jany., 1833.

Letter
acknowledged.

I received your letter of the 29th Ultimo, and in the first place beg to thank you for the kind courtesy which dictated your private letter however unpleasant might be the information it conveyed.

I am very anxious to place before you, and perhaps also Lord Goderich, the correspondence which has taken place on this subject, and, as I consider I have above £20,000 at Stake, I hope you will excuse the pertinacity I may be compelled to manifest.

I assert, 1st, that, in November, 1824, I had Lord Bathurst's promise that, in consideration of my sending to Australia the largest Investment which had ever left England (a system the Government of that day was most anxious to encourage), I should be allowed to select 10 acres in Sydney Harbour for the purpose of erecting Store Houses and for carrying into effect my proposed arrangements.

Promise of land
grant in Sydney
harbour.

That Mr. McIntyre, in his arrival in 1825, made application to the Government and the Colonial Secretary for this recorded allotment, first in general terms, then pointing out the direct spots, etc., etc.; that the essence of the replies (setting aside the miserable evasion of his Lordship's orders) went to shew that *there was no* Land of the character desired, and it was not in the power of Government to award any such, but from the doubt of the Instruction, but from the *avowed* want of Land answering the description; and yet *2 years afterwards* Mr. McLeay obtains a nominal grant of 50 acres (really above 60) in Elizabeth Bay, any portion of which would have answered my end, and above 100 acres have since been *given, leased or sold* in the face of the neglected authority of the Secretary for the Colonies. Have I then *no right to complain*. Surely it is sufficient loss to me that I can only receive in 1834 that which was officially pledged to me in 1824, without being called upon to make good all rises of the value of Property in that most rising portion of the globe. These documents I shall beg to hand to you; certainly I had not expected the very extraordinary defence *now set up* that *all increased* grants were to be liable to an immediate Quit rent. I can bring you abundance of Evidence of persons now in this Country, who have received increased grants in 1827-8 *without any imposition of Quit rent*, but on the same terms as their original grants, the local Government wisely holding that the party, who had invested Capital in his first grant, was well entitled by his Conduct to obtain a second; and certainly the personal assurances both of Mr. Huskisson and Sir George Murray were calculated to convey every belief of liberal and fair conduct; instead of which the jealousies of Interested Parties in the Colony have been successfully exerted to retard my exertions, and deprive me of which has been in other cases freely and openly supplied.

I therefore again assert that I have not had fair play in the Colony, and I will not allow myself to believe that, if a fair Statement of the facts were before your office, Lord Goderich would consent to make me so large and chief a sufferer.

Believe me, &c.,

T. POTTER MACQUEEN.

1833.
9 Jan.

Inability
to obtain
fulfilment
of promise.

Quit rents on
additional
grants.

GOVERNOR BOURKE TO UNDER SECRETARY HAY.

(Despatch per ship Brothers.)

Sir,

Government House, 15th January, 1833.

15 Jan.

I have the honor to inform you that I have received a despatch of Lord Viscount Goderich *No. 122*, addressed to me on the cover, but intended as I perceived on opening it for the Governor of Ceylon. With this exception, I have received in regular series His Lordship's despatches for this Government to *No. 123* inclusive.

Despatch for
Ceylon received.

Despatches
acknowledged.

I retain the Despatch for The Governor of Ceylon with its enclosures, hoping to have the means of forwarding it to him by an early opportunity.

I have, &c.,

RICHD. BOURKE.

1833.
16 Jan.

UNDER SECRETARY HAY TO GOVERNOR BOURKE.
(Despatch per ship Asia.)

Dear Sir, Downing Street, 16th January, 1833.

Instructions for
employment of
P. Campbell.

With reference to Lord Goderich's letters of the 20th of March, 1832, enclosing an application from Sir Colin Campbell in favor of his Relative, Mr. Patrick Campbell, who had been temporarily employed by your Predecessor in the Department of Roads and Bridges, I am directed by his Lordship to acquaint you that Mr. John Campbell has since renewed the application on behalf of his Brother; and I am to request that you will bear in mind the wish of the Secretary of State to meet the views of Mr. Patrick Campbell, either by appointing him to the next vacancy that may occur in the Surveyor General's Department, or, if you should be precluded from such a measure by the reductions ordered from Home, by conferring some other employment upon him on the first favorable opportunity, which may offer, consistently with the interests of other Claimants.

I remain, &c.,
R. W. HAY.

GOVERNOR BOURKE TO VISCOUNT GODERICH.
(Despatch No. 8, per ship Brothers; acknowledged by
right hon. E. G. Stanley, 26th June, 1833.)

My Lord, Government House, 16th January, 1833.

Proposed
increase of
salary for
H. Halloran.

I have the honor to transmit the extract of a letter addressed to the Colonial Secretary by the Surveyor General in this Colony, requesting a higher rate of pay for his second Clerk, Mr. Hy. Halloran. I have reason to believe that Mr. Halloran is a deserving young Man, and I am sure his services will not be overpaid at the Salary of £150 a year, for which I beg leave to recommend him.

Difference
in rates of
salaries.

The Surveyor General recapitulates several different rates of salaries existing in the several Offices under this Government, few of which are of more importance than his own. I imagine the variety in the rate has been principally occasioned by the increased or diminished facility of obtaining competent clerks at the several periods of their respective appointments. But however inconvenient the variety of the rate may be as affording matter for invidious comparison, I do not see how it can be wholly avoided in a Colony where prices are so fluctuating.

The denial of promotion to Mr. Halloran, by placing another person to fill up the vacancy caused by the resignation of the

Chief Clerk in the Surveyor General's Department, was at the instance of the Surveyor General himself, who represented to me that he thought Mr. Halloran too young a Man to take the lead in so important and troublesome an Office and recommended another person whom I appointed accordingly.

1833.
16 Jan.

Reasons for non-promotion of H. Halloran.

I have, &c.,

RICHD. BOURKE.

[Enclosure.]

EXTRACT of a Letter from the Surveyor General, dated
7th January, 1833.

(No. 33/18.)

I BEG now to state that my chief reliance must now be for some time on Mr. Halloran, whose zeal and ability, as well as his long standing in this Office (though yet young), have several times induced me to apply in his behalf, praying that his Salary might be proportioned to his length of Service, or at least to those paid to others in similar situations in the other Public Offices of this Colony. I beg it may be Submitted, for the consideration of His Excellency the Governor, that, whereas Mr. Halloran received three Years ago One Hundred and fifty Pounds per annum, he now receives only One Hundred and twenty Pounds, while the Clerks of some other Offices receive, on the Contrary, an annual increase. I am informed that the *youngest* Clerk in the Office of the Colonial Secretary receives One hundred and sixty Pounds per Annum; that, in the Audit Office, the Second Clerk receives One Hundred and Seventy Pounds per annum and that the third and fourth receive each one hundred and sixty Pounds. In the Office of the Superintendent of Convicts, the Second Clerk receives one hundred and fifty Pounds. In the Supreme Court Office, the Youngest receives one hundred and thirty Pounds per annum. I trust more instances will not be necessary to convince His Excellency that Mr. Halloran's Salary is below the rate paid in other Offices, though, strange to say, Mr. Halloran is, with one exception only, of longer standing than any of the abovementioned Clerks. Mr. Halloran is not the Junior but the *Second* Clerk in this Office, while the third, a mere copying Clerk, receives the same salary as himself. It may also deserve His Excellency's Notice that, where the Chief Clerk receives only One Hundred and ninety or two hundred Pounds, as in the Office of the Superintendent of Convicts, the Second Clerk's Salary is one hundred and fifty Pounds per Annum.

Request by T. L. Mitchell for increased salary for H. Halloran.

Salaries of clerks.

I would therefore submit for His Excellency the Governor's Consideration that Mr. Halloran's Salary as Second Clerk in this Office, after Six Years' Service, should not be less than *One hundred and Sixty Pounds* per annum; and I beg to assure His Excellency, in making this request in behalf of Mr. Halloran, that I do so only from a desire to get through the Public business of this Office, being convinced that some encouragement, proportionate to length of service, is necessary to stimulate the Zeal and industry of any Individual; and now I would respectfully submit, when the higher step has been denied him, Mr. Halloran's claims are entitled to the most favorable consideration.

Salary proposed for H. Halloran.

1833.
17 Jan.

UNDER SECRETARY HAY TO GOVERNOR BOURKE.
(Despatch per ship Asia.)

Sir, Downing Street, 17th January, 1833.

I am directed by Viscount Goderich to transmit to you the Copy of a Letter from the Under Secretary of State for the Home Department, and his Lordship desires me to request that, with a view to obviate any future difficulty or inconvenience of the nature of that described, you will cause a Return to be sent home of all Free and Conditional Pardons, which may have been granted by the respective Governors of New South Wales for the last ten years, and that, in addition to the reference which you are required by the Act 9 Geo. 4, Cap. 83, Sec. 33, to make to this Country in the cases of every Convict upon whom a Free Pardon may have been bestowed, you will forward to the Secretary of State, annually, made up to the 31st December, a List of all such Pardons granted during the year, for the purpose of its being transmitted to the Home Office, and insuring greater accuracy in the Register which it is proposed to keep there.

I am, &c.,

R. W. HAY.

[Enclosure.]

MR. S. M. PHILLIPPS TO UNDER SECRETARY HAY.

Sir, Whitehall, 10 January, 1833.

In consequence of the numerous enquiries which are made at this Office relative to various Convicts, who have returned to this Country from the Australian Settlements before the expiration of their Sentences, and from the difficulty which Exists in ascertaining the truth of the assertion, which these persons frequently make when apprehended, that they have received a free pardon, it would be extremely desirable, in order to facilitate the ends of Justice, to call upon the Governors of those Colonies for a Return containing the name and particulars of each Convict, who may have received a Free Pardon from either of those Officers during the last Ten years, it being proposed to keep a Register of such Pardons in this Department, and to continue the same as future cases shall occur, with a view to affording ready and authentic information when required.

I am therefore directed by Viscount Melbourne to request that you will move Viscount Goderich to be pleased to take the necessary measures for procuring the Return before mentioned.

I am, &c.,

S. M. PHILLIPPS.

GOVERNOR BOURKE TO VISCOUNT GODERICH.

(Despatch No. 9, per ship Brothers.)

18 Jan.

My Lord, Government House, 18th January, 1833.

In obedience to the commands, contained in Your Lordship's Circular despatch of the 23rd November, 1831, I have the

Returns
required of
free and
conditional
pardons.

Necessity for
return of
pardons.

Request
for return.

honor to transmit herewith a Return shewing the number of Colleges and Schools of Education in this Colony with a List of the Professors and Masters severally belonging to them and an account of their Salaries.

1833.
18 Jan.
Transmission
of return *re*
schools.

I have, &c.,

RICHD. BOURKE.

[Enclosure.]

[*This return has been omitted. The names of the schools and the masters were detailed as in the "New South Wales Calendar" for 1833, together with particulars of salaries and allowances.*]

GOVERNOR BOURKE TO VISCOUNT GODERICH.

(Despatch No. 13, per ship Brothers; acknowledged by right hon. E. G. Stanley, 26th June, 1833.)

My Lord, Government House, 23rd January, 1833.

23 Jan.

Referring to Your Lordship's Despatch No. 33, dated 16th October, 1831, calling for a nominal Return from the Principal Superintendent of Convicts of the number of Prisoners at present under Sentence of Transportation in this Colony, I have the honor to inform you that, having directed Mr. Hely to be called upon to furnish this Return, he has addressed a letter to the Colonial Secretary, of which the following is a Copy.

Proposed
nominal
return of
convicts.

I have delayed until now to forward this letter hoping to be able to transmit the Return to your Lordship; but, as I am now informed by Mr. Hely that, owing to the illness of his Chief Clerk and the want of sufficient assistance to conduct the duties of his office, it will be impossible to have it prepared before the expiration of two months more, I have thought it right to furnish Your Lordship with a Copy of Mr. Hely's letter in explanation of the former omission as well as of the present delay.

Delay in
transmission
of return.

I have, &c.,

RICHD. BOURKE.

[Enclosure.]

MR. F. A. HELY TO COLONIAL SECRETARY MACLEAY.

Principal Superintendent of Convicts' Office,

Sir.

22nd August, 1832.

Having reference to your letter of the 4th April last, No. 32/292, requesting that a transcript of the Return of Prisoners of the Crown kept in my Office, from the Year 1825 the date of the last Muster received in England up to the latest period, may be prepared for transmission to England as early as possible, and informing me that if required the Census taken in 1828 is at my service to enable me to complete the transcript alluded to, and referring also to my letter of the 9th April, No. 32/191, I have the honor to inform you that, having obtained the Census of 1828, the

Letter
acknowledged.

1833.
23 Jan.

Difficulty in
preparing
return of
convicts.

Return called for is in progress, but I cannot entertain the hope of its being ready for transmission for at least three months to come.

As there seems however to be some misapprehension with regard to the means afforded by this Office for preparing the Return in question, I beg to acquaint you, for the information of His Excellency the Governor, and if necessary that it may be communicated to the Secretary of State, that no such transcript as that alluded to is nor ever has been in this Office, nor have I before been charged with the preparation of a similar return to that now called for. It can therefore be matter of little surprise that, without the means of making it up and without any previous notification that I should be charged with such a duty, I am unable either speedily or satisfactorily to prepare such a Voluminous Document as that now required must necessarily be.

Preparation of
former returns.

It is within your knowledge that all the Returns of this nature hitherto sent to England were prepared and forwarded from the Office of the Colonial Secretary, in which there was a separate department for this purpose, conducted by what was called the Principal muster Clerk, an office not very long since abolished. Those Returns you are also aware were made up from periodical musters of the Colony, and not from any register in this or any other Office, which in fact could hardly be expected to be kept correctly in this Colony, where the population is scattered over a Territory of upwards of Three hundred Miles Square, and where much of the necessary information required must be obtained from the Settlers and others located in the different parts of this extended Territory.

Register of
convicts in
Tasmania.

In Van Dieman's Land, there is a separate appointment termed a "Muster Master," an Office which must I presume have arisen out of some one similar to that called the "Muster Clerk" in this Colony, whose exclusive duty (from what has officially come under my observation) seems to be to keep such a Register and prepare such Returns as those formerly furnished from the Colonial Secretary's Office in New South Wales; but in that Colony, where the number of Convicts is comparatively speaking few and the Territory limited, it will be a matter of much less difficulty to keep such a Register in a somewhat efficient state to what it would be in this Colony.

Muster rolls of
convicts from
each ship.

Copies of the Muster Rolls of each Ship as they arrive are Registered in this Office; but those Registers serve more as a ready means of obtaining particulars of Prisoners to fix their identity than for any other purpose, as they contain nothing further respecting them than the places to which they may have been originally assigned on their arrival. Although, therefore, I have been supplied with the Census of 1828, it would be an endless labor to attempt to trace individually every Prisoner in that Return down to the present period with the addition of those arrived since, amounting in themselves to about (10,000) Ten Thousand.

Inability to
make return
required.

Without in fact having recourse to the old system of periodical musters (which even from the experience had in conducting that of 1828 will I fear prove but very unsatisfactory) or adopting an entirely new mode of keeping a Registry of Convicts, which it will take years to mature, and which will at all times be subject to error from the unwillingness or neglect of Individuals to furnish Returns, I apprehend it will be impossible to make up such a Return as that expected by the Secretary of State.

If therefore considerable delay should arise in preparing the Return now making up, and if when finished it should not be found so complete as could be desired, I trust from the explanation which I have now given that those delays and deficiencies will not be attributed to me; and I feel confident that, had the Secretary of State been aware of the facts now mentioned, His Lordship would have abstained from holding out the unpleasant threat* communicated in your letter.

1833.
23 Jan.

I have, &c.,

FREDK. A. HELY.

GOVERNOR BOURKE TO VISCOUNT GODERICH.

(Despatch No. 14, per ship Brothers; acknowledged by right hon. E. G. Stanley, 13th November, 1833.)

My Lord, Government House, 24th January, 1833.

24 Jan.

At the suggestion of the Deputy Commissary General on this Station, whose letter is transmitted herewith, I have the honor to forward an application from Mr. M. Gregson, as Agent to Mr. John R. Kent, formerly employed as Master in a Colonial Vessel, to be paid the Sum of £297 0s. 2d. according to the account of which a Copy accompanies this Despatch. The correctness of Mr. Kent's claim cannot be enquired into here, as the accounts of the Deputy Commissaries General Drennan and Wemyss, during whose employment in New South Wales the claim is alledged to have originated, have been sent to England. I have therefore to request that Your Lordship will be pleased to move The Lords Commissioners of the Treasury to call on those Officers to furnish from the accounts, which are open to their inspection in England, a Report upon the propriety of Mr. Kent's demand.

Claim for money on behalf of J. R. Kent.

The claim being of an old date, I should have scrupled to forward it, but that it appears by the accompanying letter from the Master Attendant to have some foundation.

I have, &c.,

RICHD. BOURKE.

[Enclosure No. 1.]

MR. J. LAIDLEY TO COLONIAL SECRETARY MACLEAY.

Sir, Commissariat Office, Sydney, 2nd January, 1833.

Adverting to your Letter No. 834 of the 18th ultimo on the subject of the Claim of Mr. J. Kent for payment of Stores and Provisions furnished to the Government Colonial Vessels "Mermaid" and "Elizabeth Henrietta" between 27th Sept., 1821, and 13th March, 1825, amounting to £297 0s. 2d., I have the honor to state for the information of His Excellency the Governor that there are no records in this Office by which Mr. Kent's claim can be verified as both Deputy Commissarys General Drennan and Wemyss are now in England. It might however be desirable to forward Mr. Kent's account to the Lords Commissioners of the Treasury in order that their Board might call on those Officers for the explanation required.

Absence of records re claim of J. R. Kent.

I have, &c.,

JAMES LAIDLEY, D.C.G.

* Note 5.

1833.
24 Jan.

[Enclosure No. 2.]

MR. M. GREGSON TO COLONIAL SECRETARY MACLEAY.

Sir, Queen Street, Sydney, 15th November, 1832.

Claim for
money due to
J. R. Kent.

As the Agent of Mr. J. R. Kent, formerly in command of H.M. Colonial Vessels "Mermaid" and "Elizabeth Henrietta," I have very respectfully to request that you will submit to His Excellency The Governor his claim upon this Government for the Sum, besides Interest, of £212 7s. 5d. of the former Currency of this Colony and with Interest, calculated to this date, £297 0s. 2d. Sterling, as per enclosed Statements.

Mr. Kent is absent from the Colony in Merchant's employ, and, as is stated to me, has generally been so since he quitted the Service of the Colonial Marine, owing to which, he has never yet obtained a Settlement of his account with Government; but this circumstance, and I know of no other that should, will not, I feel persuaded, invalidate his just claims to compensation for supplies furnished by him for His Majesty's Service, even at a period somewhat remote.

Soliciting on behalf of Mr. Kent the favor of your acknowledgment hereof,

I remain, &c.,

M. GREGSON.

[Enclosure No. 3.]

MR. J. NICHOLSON TO COLONIAL SECRETARY MACLEAY.

Sir, Master Attendant's Office, Sydney, 29th Decr., 1832.

Report by
J. Nicholson
on claim.

In reply to your Letter dated 18th Inst. No. 32/214, enclosing Copies of Communications from Mr. J. R. Kent respecting his claim to the Sum of £297 0s. 2d. for Stores and provisions alleged to have been Supplied to the Government Colonial Vessels "Mermaid" and "Elizabeth Henrietta," while under his command, and calling on me to report whether this Office contains any evidence of the propriety of the Claim:

I beg to inform you, I have no documents that would in any way elucidate the said claim; but at the same time beg to state that, as far as I can recollect, Mr. Kent, when proceeding to the Islands, did purchase with his own Trade some Pigs, Potatoes, etc., for the use of his Crew, by which means he saved the expenditure of the Government provisions, and which I am not aware whether he ever turned into the Commissariat; but, of any other purchase on account of Government, I do not know of. On his quitting the Government Service, he did not I believe settle up his provision account with the Commissariat, which at that period the provision accounts were kept by that Department and the masters only, the latter holding himself responsible to them at the close of each Quarter for the quantity of Provisions drawn.

With respect to the Affidavit, wherein it States that the Accounts marked A, B and C are in the handwriting of one of the Clerks in the Dock Yard, I beg to say that this perhaps is the case; but still they could have only been made out from Mr. Kent's own accounts and not from Documents in this Office.

I do myself the honor of enclosing the Copies of Mr. Kent's Claim.

I have, &c.,

JOHN NICHOLSON, Master Attendant.

GOVERNOR BOURKE TO VISCOUNT GODERICH.

(Despatch No. 15, per ship Brothers; acknowledged by right hon. E. G. Staunley, 22nd August, 1833.)

1833.
25 Jan.

My Lord, Government House, 25th January, 1833.

I have the honor to transmit the petition of John Hogan, praying for compensation for the injury he has received by reason of an Error in the Indent, under which he was assigned to servitude in this Colony as a Felon Sentenced to Transportation for seven Years. By a Certificate from the Clerk of the Peace of the County of Tipperary, it would appear that Hogan was sentenced for seven years under the Insurrection Act on the 18th Septr., 1822, from which it follows that the period of his servitude expired on the 18th Septr., 1829. Upon his application for a certificate of freedom at that time, it was refused on the ground that the Indent stated his sentence to have been passed in 1823, and that he had in consequence another year to serve. Hogan it appears, persisting in his claim and in a refusal to work, was sentenced by a Magistrate to punishment, and was subsequently confined by Order of the Principal Superintendent of Convicts and not released until 1830. Acting under the advice of an Attorney, Hogan brought an Action first against the Principal Superintendent of Convicts and afterwards against the Magistrate, but gained nothing by these proceedings. The Attorney however produced an enormous Bill of Costs, and, having been probably the Instigator to the Actions, is now the promoter of a claim for compensation.

Claim by
J. Hogan for
compensation
for error *re*
his sentence.

Hogan is, however I apprehend, a sufferer from an Official mistake; and, if Your Lordship is inclined to overlook the folly of his conduct in resisting authority and bringing actions at Law, when a less obnoxious demeanor would have obtained for him all due consideration, it may perhaps be right to make him a donation of a small sum of money. A jury seems to have considered ten pounds as sufficient damages in one case of complaint. Perhaps fifty pounds will be as much as he should in reason receive for all.

Compensation
proposed.

Having some knowledge of the handwriting of the Clerk of the Peace for the County of Tipperary, I am induced to think the certificate sent herewith is genuine. But it will be right to obtain an official assurance of the facts it asserts, before any donation is directed to be paid.

I have, &c.,

RICHD. BOURKE.

[Enclosure.]

[A copy of this petition is not available.]

1833.
1 Feb.

GOVERNOR BOURKE TO VISCOUNT GODERICH.

(Despatch No. 16, per ship Brothers; acknowledged by right hon. E. G. Stanley, 19th August, 1833.)

My Lord, Government House, 1st February, 1833.

Sale of
revenue cutter.

In my Predecessor's despatch of the 19th December, 1831, No. 77, Your Lordship is informed of the inefficient state of the Revenue Cutter Letitia Bingham, and of the desire of the Custom House Officers here, to obtain a suitable Vessel to be employed principally outside the Heads of Port Jackson. I have now the honor to inform Your Lordship that, finding the Letitia Bingham not seaworthy nor capable of being made so, I deemed it proper to pay off the Master and Crew, and sell the Vessel.

By the accompanying Copies of a correspondence with the Collector and Comptroller of Customs, Your Lordship will see what steps I have taken for supplying temporarily the loss of the Cutter, and for providing an additional Land Waiter to the Custom House at Sydney, as required by the Collector and Comptroller.

Advantages of
employment of
revenue cutter.

The late Order in Council having authorized Officers of Customs to rummage Vessels hovering off these Coasts, the employment of a Cutter outside the Heads will probably prove an efficacious means of preventing smuggling and perhaps the escape of Convicts. I am, therefore, glad to find by Your Lordship's Despatch of the 18th of June, No. 104, that the application of the Collector and Comptroller has been complied with.

I have, &c.,

RICHD. BOURKE.

[Enclosures.]

[Copies of these papers are not available.]

GOVERNOR BOURKE TO VISCOUNT GODERICH.

(Despatch No. 17, per ship Brothers; acknowledged by right hon. E. G. Stanley, 26th June, 1833.)

2 Feb.

My Lord, Government House, 2nd February, 1833.

Transmission
of memorial
from
W. Caswell.

I have the honor to transmit a Memorial from Lieut. Caswell, R.N., addressed to Your Lordship, soliciting an additional Grant of Land consisting of 590 Acres, which he received from General Darling in October, 1831, may be given to him free of Quit Rent. Mr. Caswell's case appears to be as follows:—

By the Regulations of the 23rd Sept., 1828, and the practise at the time of Mr. Caswell's arrival in the Colony, Officers of the Army and Navy obtained Land in the Ordinary mode

according to extent of Capital, their half pay being calculated at 7 years' purchase, such Land being exempt from Quit Rent for periods regulated by the Services of the Parties.

1833.
2 Feb.
Particulars
re claim of
W. Caswell.

Mr. Caswell proved a Capital of £1,500, including the value of his half pay (£630) and obtained three Sections of Land (1,920 Acres) free of Quit Rent. To these were subsequently added 50 Acres as a Special favor for Mr. Caswell's accommodation.

Mr. Caswell, thinking his half pay was valued too low and that it should have been rated at a sum which, by making his Capital amount to £2,000, would have entitled him to receive four Sections or 2,560 Acres of Land, addressed a Memorial to the Secretary of State thro' the late Governor praying for that quantity. The Governor wrote a Minute on Mr. Caswell's application in these words: "I have not had time to write home on this case. Let Mr. Caswell have 590 Acres to complete his primary grant to four Square Miles." October 5th, 1831.

Mr. Caswell, in July, 1832, claimed to have these 590 Acres free of Quit Rent. On the papers conveying this claim from the Colonial Secretary's Office, it is stated that "Genl. Darling gave the additional Grant subject to Quit Rent after 7 years according to the ordinary Regulations." I therefore declined to exempt it from payment, believing that the Land Board had done full justice to Mr. Caswell in the valuation of his Half Pay and other Capital, and that he had received as much Land free of Quit Rent as, by the Regulations in force at the time of his Grant, he was entitled to.

It may be a question indeed whether he ought to have obtained the 590 Acres otherwise than by purchase, the order being dated 5th Octr., 1831.

I have mentioned that, on the papers received from the Colonial Office, it is stated that "General Darling gave the additional Grant subject to Quit Rent." It is still the opinion at that office that such was General Darling's intention; but it is true, as asserted by Mr. Caswell in his Memorial to Your Lordship, that the Colonial Secretary at one time seemed to entertain a contrary opinion.

The sum in contention is trifling about £5 per annum; but as it might be very inconvenient to afford a precedent for reconsidering the decisions of the Land Board which have been acted on for many years, I have thought it more proper to give Your Lordship the trouble of this Appeal than to grant the application of Mr. Caswell.

I have, &c.,

RICHD. BOURKE.

1833.
2 Feb.

[Enclosure.]

LIEUTENANT CASWELL TO SECRETARY OF STATE.

Taralba, Port Stephens,

N. S. Wales, 30th August, 1833.

My Lord,

Claim by
W. Caswell to
exemption from
quit rent.

In the Year 1828, I took advantage of a circular addressed to the Officers of the Navy holding out to those who chose to emigrate to N. S. Wales an exemption from Quit Rent according to their Services.

I obtained the Admiralty's permission and embarked the whole of my property £2,000; My Family's outfit, Passage money, etc., etc., not being admitted as available, the Land Board only considered me eligible for 3 Sections of land.

I transmitted through His Excellency General Darling a letter to my Lord Goderich praying his consideration of my case, stating the Land Board having admitted me to possess £1,100 available for agricultural purposes, that it and the value of my Commission entitled me under existing regulations to a maximum Grant.

After the Governor left the Colony, I received an order to select 590 Acres of land, being just the quantity necessary to make up my primary Grant. On receiving the order to take possession which I have done, I found it subjected to a Quit Rent.

I called on the Hon'ble the Colonial Secretary, who rebuked the Clerk that had made the order out, and whom He desired to bring His Excellency Governor Darling's minute, giving me the land; it was produced and read. The Hon'ble Mr. McCleay told the Clerk a 2nd time warmly, it ought not to have been charged, It was my primary Grant and told me it should be rectified; having waited 2 months, I ventured to beg His Excellency the present Governor under the circumstances to remit the Quit Rent; and I have this day received a letter from the Hon'ble Mr. McCleay stating His Excellency cannot do so.

I therefore most humbly pray the advantages held out to me by the Admiralty circular of 11th of August, 1827, which advantages I respectfully claim on the following Grounds:—

1st. The Circular states Officers of 20 years and upwards shall be exempt from all Quit Rent, and I am an Officer of upwards of 20 years standing.

2nd. If I had not been entitled to the quantity of land, it would not have been granted me, as I was and am wholly unknown to the late Governor.

3rd. That a Purser of the Navy, who arrived with me in the same Ship, now holds 4 sections of land and is not charged any Quit Rent.

I beg to state to Your Lordship I have laid out the whole of my Property on my land. I have been upwards of 3 years on my Farm, an isolated and distant spot, never leaving it except for a few days, and then only when ordered by the Government on the Public Service; that I have never identified myself with the Party feeling which has run so high in this Colony, and therefore humbly hope You will consider me entitled to and order me the full benefit of the advantages, held out by the Lord High Admiral, which alone induced me to give up my hopes in the Navy and to bring my Family and Property to so distant a Colony.

I have, &c.,

WILLIAM CASWELL,

Lt. of the Royal Navy, settler in

Port Stephens, N. S. Wales.

GOVERNOR BOURKE TO VISCOUNT GODERICH.
(Despatch No. 18, per ship Brothers; acknowledged by
right hon. E. G. Stanley, 5th September, 1833.)

1833.
4 Feb.

My Lord, Government House, 4th February, 1833.

Upon receipt of your Lordship's Despatch of 14th May last, No. 99, I desired the Auditor General to furnish me with a statement of the number of Clerks, whom he thought it absolutely necessary to retain in his Office, of the duties to be performed by each, and of the Sums which he deemed sufficient for their remuneration respectively.

Report *re* clerks
employed in
audit office.

In reply he has addressed a letter to the Colonial Secretary, of which I have the honor to enclose a Copy.

In this letter, Mr. Lithgow goes very fully into the details of his Office, and I have every reason to believe the correctness of his Statements.

Your Lordship will perceive that, in the last year, a considerable reduction of expense was effected in his Department, but that Mr. Lithgow has no prospect of being able to carry it further until the Commissariat claims on the Colonial Treasury and other arrears of business are finally disposed of. These being adjusted he is of opinion that, with Six free Clerks* whose united salaries would amount to £865 12s. 6d. per annum, the business of his Office may be conducted with efficiency.

I need hardly point out to Your Lordship the great importance of the Office of Auditor General, and how necessary it is that the Department, which should keep the accounts of all others in a proper state of forwardness, should not itself fall into arrear from the want of sufficient means to carry on the duties with regularity and despatch.

Your Lordship will perceive by Mr. Lithgow's statement that the late reduction of expense in the Auditor's Office has been partly effected by substituting a Convict for a free Clerk, and that the establishment of six free Clerks, which he proposes to be permanent in his Office, will add £144 3s. 9d. to the present annual charge, raising it from £721 8s. 9d. to £865 12s. 6d. To the employment of Convicts in any of the Public Departments, except as mere laborers, I concur with Your Lordship and the Lords of the Treasury in the expression of a decided repugnance; and I propose taking an early opportunity of submitting to your Lordship the expediency of replacing all such Persons by free Men as Vacancies occur in the employments now held by them.

Objections to
employment
of convicts
as clerks.

I have, &c.,

[Enclosure.]

RICHD. BOURKE.

[A copy of this letter is not available.]

* Marginal note.—Chief Clerk, £250; 2nd, £170; 3, £160; 4 and 5th, £240; 6th, £45 12s. 6d.—Total, £865 12s. 6d.

GOVERNOR BOURKE TO VISCOUNT GODERICH.

(Despatch No. 19, per ship Brothers.)

My Lord, Government House, 5th February, 1833.

Supervision
of repairs to
public
buildings.Control of
military and
convict
buildings.

Upon the breaking up of the Lumber Yard at the beginning of the last year, it was found necessary for facilitating the repairs of the Several Public Buildings of the Colony to separate the charge of the Colonial from the Military and Convict Buildings, and place them under distinct Superintendence. The former were continued under the care of the Colonial Architect; the two latter, the expense of which is defrayed by the Military Chest, were placed under the charge of the Deputy Commissary General, whom I have lately assisted by a Board formed after the manner of the Boards of Respective Officers of Ordnance. The duty of the Board is to take the general charge and Superintendence of all the Military, Police, and Convict Buildings in the Colony, to receive and examine applications for repair, additions or conversions, to recommend the acceptance of Contracts for the execution of the more considerable works, and to direct the performance of the trifling repairs which are from time to time required and are completed by Convict labor with purchased Materials. To enable the Deputy Commissary General and Board to discharge with effect the duty thus imposed upon them, I directed one of the Clerks of Works to be removed from the Colonial Architect's Department and placed on the strength of the Commissaries. I have since been obliged to add two Clerks to the office of Clerk of the Works to enable the Board to get through their weighty and responsible business. I have also found it necessary occasionally to allow the temporary employment of one or two Foremen of Works to Superintend the Execution of Repairs of Buildings in the Country Districts, which, from the remoteness of the situation, could not be sufficiently Inspected by the principal officer of the Department. Contracts have been entered into in all cases where they could be obtained with advantage, and none but works of a very trifling nature have been totally executed by Convict labor. Every measure has been taken that has suggested itself for conducting this branch of the public service at the smallest possible expense; and, although the difficulty in procuring reasonable contracts (which my Predecessor anticipated and represented to Your Lordship) has been found perplexing, and tho' terms have unavoidably been high, and notwithstanding the money charge of this year for the construction and repair of Buildings appears much more considerable than the same charge for former years, yet I am by no means of opinion that the actual expense to the public has been

greater, in as much as the cost of maintaining Convicts and the vast expenditure (I might perhaps say waste) of Stores has been nearly altogether avoided.

1833.
5 Feb.

In conformity with the practise of the Ordnance Department at those Stations, where Boards of Respective Officers are formed, I directed an annual Committee of Inspection to assemble in the Month of September last to examine into and Report upon the state of all the Public Buildings in Sydney, repairable at the charge of the Military Chest. The Board have prepared a Report, which I have now the honor to transmit. Your Lordship will perceive that the Sum, required to be expended in the year 1833 for the repairs of the several Buildings in Sydney being 25 in number, is estimated at £9,325 9s. The Report is prepared according to the Ordnance form; and I have placed in the column, set apart for the purpose, such observations as I have thought it necessary to lay before Your Lordship upon each item of expenditure as detailed in the Report. I need not recapitulate these in this Despatch. I will merely observe that the Repairs, which I shall find it necessary to undertake in this year in order to preserve the Buildings and thus save the Public future augmented expense, will cost somewhere about the sum of £3,500, which I shall find myself obliged to expend without further authority. With respect to the more considerable expenditure for such Repairs as are recommended by the Board, or for such Constructions and Conversions as I have thought it advisable to propose, I shall hope for the honor of Your Lordship's commands.

Report by committee of inspection on military and convict buildings.

Whilst I am upon this subject, I beg leave to suggest for Your Lordship's consideration an arrangement which appears to me likely to be of advantage to the Colony eventually and a present saving of expense to the British Treasury. In the division of expenditure, which has been adopted under Your Lordship's directions, between the Mother Country and the Colony, the expense of the Police Establishment is directed to be paid by the British Treasury, certain sums in aid of this expenditure being however supplied by the Colony. These sums in the last year amounted to near £9,000. It has occurred to me that, if the Colony were exempted from the payment of these sums, which are raised on licenses to retail Spirits and by Fines and Fees received in the Police Courts, it would be possible to relieve the Mother Country from one entire Branch of the Police expenditure. I mean the construction and repairs of all the Police Buildings, such as Gaols, Lockup Houses, Watch Houses and Court Houses of all descriptions. The erection of these Buildings cannot fail to be of advantage to the Colony at a future

Proposed adjustment of expenditure on gaols and police buildings.

1833.

5 Feb.

Proposed
adjustment of
expenditure on
gaols and police
buildings.

period, when the importation of Convicts shall have ceased. By making them a charge on the Colony, and drawing the Supplies for their construction and maintenance through the Legislative Council, the attention of the Colonists will be called to them, and an interest acquired in their preservation, which does not seem to attach to those works, which are defrayed at the cost of the British Treasury alone. I do not, however, think that the Colony would be able to bear, nor would it be just to impose upon it, the very heavy expense which these buildings occasion, if the large annual sum now paid into the Military Chest in aid of the Police Establishment should continue to be called for. But, if your Lordship should think well of surrendering this pecuniary aid, I would willingly propose to the Legislative Council the appropriation from the Colonial Revenue of all such sums as may hereafter be required for the construction and Repairs of Gaols, Court Houses and all other Buildings, connected with the Police Establishment of the Colony. Your Lordship will understand that the other principal branch of the Police Expenditure, which is occasioned in a great degree by the Colony being made the receptacle of British Offenders, viz., the Salaries of Stipendiary Magistrates, Constables and Gaolers, and the cost of the Mounted Police, is proposed to be left as at present a charge upon the British Treasury.

Inability to
report on
buildings in
colony
generally.

The Report of the Committee of Inspection, which I have now the honor to transmit, is confined to the Public Buildings in Sydney. Your Lordship is, however, aware that there are various other Buildings Military, Police and Convict, situated in other parts of the Colony. Of these I have not yet been able to obtain a formal Inspection and Report. I have, however, directed the Inspection to be made at the earliest possible opportunity, and I will forward the Report as soon as obtained, when Your Lordship considers that the Officers, whom I found it necessary to employ in this Branch of the Service, have all their separate duties to perform in another, you will not be surprized if a considerable delay occurs in the execution.

Board proposed
for control
of buildings.

To obviate the delay to which I allude, and to ensure a more skilful expenditure of the public money in the construction and repairs of the works now under consideration, I would earnestly recommend to Your Lordship that an officer of Engineers and a Deputy or Assistant Storekeeper of Ordnance be appointed to this command. I have already had occasion to represent to the Commander in Chief the expediency of sending an Officer of Artillery to take charge of the Batteries and to equip the Field guns now lying useless in the Sheds. This Officer, in conjunction with the two whom I have just mentioned and the Barrack

Master, will form a Board of Respective Officers, under whose Superintendence all these public Buildings might be placed, as is the case with Military Works in other Colonies, where such Boards are established, and in many of which the Buildings to be Superintended are not by any means so considerable or expensive as in this. If your Lordship should adopt the arrangement, I have proposed in this Despatch, for placing on the Revenues of the Colony the charge of the Police Buildings, there will still remain the Military and Convict to be Superintended by the Board of Respective Officers. These Buildings are in number and importance sufficient to require the establishment of such a Board, whilst the Officers of Engineers and Artillery are each wanted in their respective Department to aid in the security and defence of the Colony.

1833.
5 Feb.

Board proposed
for control
of buildings.

There is yet another subject connected with the Public Buildings of the Colony, which I may conveniently bring before Your Lordship in this Despatch. The Lumber Yard being closed, it is proposed to divide the premises into building allotments, and sell them by auction. The sheds and Store Houses are estimated at no greater sum than £250, but the ground being in the heart of Sydney is of very considerable value. The Sheds and Storehouses have been built by Convict labor and of materials supplied by the Commissariat, but the Superintendence of the Work, as of all public Works for many years past, has been at the charge of the Colonial Treasury, the Salary of the Director of Public Works and of every Officer of his Department having been borne on a Colonial Abstract. In consequence of this mixed expenditure, some doubts have been expressed by the Deputy Commissary General as to what share of the produce of the proposed sale should be paid into the Military Chest and what into the Colonial Treasury. It is my intention, if Your Lordship shall not disapprove, to pay the price of the Buildings only into the Military Chest, the sum received for the Land being as I apprehend a part of the Crown Revenue, which should be paid into the Colonial Treasury to be expended in the encouragement of Emigration or other Colonial purposes. I am aware that the Board of Ordnance lay claim to the sites of all Military Works and Buildings in the Colonies, and refuse to expend any Money upon the Buildings, unless the ground be first conveyed to the Board by a formal Deed of Grant. I would propose on behalf of this Colony that this Regulation should not be held to affect any other than the Sites of Military Works and Buildings, and that the Sites of all other Buildings be considered as a part of the property of the Crown, applicable to Colonial objects, and that, in the event of the sale of such Sites and Buildings (the latter having been

Proposed sale of
lumber yard :

and appropriation
of money
received.

Claim by board
of ordnance to
sites of military
works and
buildings.

1833.
5 Feb.
Property in
buildings
maintained by
colonial funds.

erected at the expense of the British Treasury), the value of the Buildings alone shall be paid into the Military Chest. Farther I would propose that any building whatever, constructed originally at the cost of the Military Chest, but subsequently repaired and maintained by the Colony, should as well as the site be considered Colonial property. When Your Lordship is informed that nearly all the Buildings in question have been constructed for the use of Convicts, and that the Salaries of the Officers employed to design and Superintend their Erection have been paid by the Colony, this general arrangement will I hope appear equitable. It would not I think be just that the erection of a Building for the use of Felons, Transported by the Mother Country, should deprive the Colony of the value of the Land upon which such Building is placed, when the latter is no longer wanted for the purpose which required its construction.

I shall hope for the honor of Your Lordship's Commands upon the several subjects of this Despatch, and the proposals contained in my observations on the Report of the annual Committee of Inspection sent herewith. I have, &c.,

RICHD. BOURKE.

[Enclosure.]

[A copy of this report is not available.]

UNDER SECRETARY HAY TO GOVERNOR BOURKE.

(Despatch per ship Asia.)

6 Feb.

My dear Sir,

Downing Street, 6th Feby., 1833.

Transmission
of papers *re*
J. Stephen, jr.

With reference to Lord Goderich's despatch No. 147 of the 24th of Decr. last (which you will receive by this opportunity) respecting Mr. John Stephen, I am directed by his Lordship to transmit for your information additional Enclosures, which have since been received from General Darling, together with his Memorandum and notes in red ink upon this case.

I am, &c.,

[Enclosures.]

R. W. HAY.

[Copies of these papers are not available.]

GOVERNOR BOURKE TO VISCOUNT GODERICH.

(Despatch No. 23, per ship Brothers; acknowledged by right hon. E. G. Stanley, 20th July, 1833.)

8 Feb.

My Lord,

Government House, 8th February, 1833.

Transmission of
memorial from
W. H. Hovell.

At the urgent request of Mr. H. Hovell, a very respectable but as I fear unfortunate settler, I have the honor to transmit a Memorial, requesting some further remuneration for services

performed in exploring* the Southern parts of this Colony in the years 1824 and 1825. It appears that the expedition was undertaken by the desire of Governor Sir Thomas Brisbane, who presented Mr. Hovell on his return with 1,200 Acres of Land, which he asserts he soon after sold for a sum less by fortyfour pounds than the charges of the Expedition, which were with a trifling exception defrayed by himself.

1833.
8 Feb.

The claim is an old one and does not appear to have been favorably considered by Governor Darling, who reached the Colony at a period not long after the return of the expedition. I should therefore have scrupled to bring it before Your Lordship but for the urgency of Mr. Hovell's application, and the great respectability of the parties who have signed the certificate attached to the Memorial.

Opinion of
R. Darling
re claim.

I have, &c.,

RICHD. BOURKE.

[Enclosure.]

[A copy of the memorial is not available.]

GOVERNOR BOURKE TO VISCOUNT GODERICH.
(Despatch marked "Private," per ship Brothers.)

Government House,

My Lord,

Sydney, 9th February, 1833.

9 Feb.

I have had the honor to receive Your Lordship's letter marked Private of the 5th July last, in which some apprehension is expressed that I may not rightly understand my situation in relation to the Government of Van Diemen's Land. I find however, upon perusing Your Lordship's letter, that I had formed no other notion on the subject than what that letter conveys. I have not indeed sent to Lieutt. Governor Arthur my Commission as Governort of Van Diemen's Land; but, as Your Lordship intimates that it will be proper to do so, I will avail myself of the first opportunity.

Status of
R. Bourke as
governor of
Tasmania.

I should have touched at Van Diemen's Land on my way out, and opened my Commission in person; but, having been led to believe on leaving England that I should find General Darling on my arrival here, I considered that it would not be respectful to him to supersede his Commission by opening mine, before I had availed myself of the opportunity of communicating with him. Since my arrival, I have not been able to proceed to Van Diemen's Land, though willing to do so; and, unless Your Lordship had desired it, I should not have thought it right to forward my Commission to the Lieutenant Governor.

Reasons for
not visiting
Tasmania.

I have, &c.,

RICHD. BOURKE.

* Note 6.

† Note 7.

1833.
9 Feb.

GOVERNOR BOURKE TO VISCOUNT GODERICH.
(Despatch marked "Private," per ship Brothers.)

Government House,

My Lord, Sydney, 9th February, 1833.

Employment
of E. A. Slade ;

In attention to Your Lordship's recommendation, I took the first opportunity that offered of conferring upon Mr. E. A. Slade a Colonial Appointment. A vacancy having occurred in Hyde Park Barracks, I have appointed Mr. Slade to be Superintendent, with which office he receives a house within the Barracks and £150 a year. I had named Mr. Woolls, whom Your Lordship also recommended for employment, for a Clerkship at the Factory at Paramatta, in which Village he resides; but he has since been received into the King's School there, as Assistant to the Master, the Revd. R. Forrest.

of W. Woolls ;

and of Peay.

I have had the honor of informing Your Lordship that I placed Mr. Peay in the Post Office, being well assured that the Head of the Department would pay him every possible attention, and with the hope that he might be removed from thence to a more responsible and profitable employment. I regret to say that Mr. Peay's attention to his Duty in the Office has not been such as to Warrant his Promotion, and I fear indeed that, unless he determines to be more diligent, it will be necessary to remove him from the employment he holds.

I have, &c.,
RICHD. BOURKE.

GOVERNOR BOURKE TO UNDER SECRETARY HAY.

(Despatch per ship Sovereign; acknowledged by right hon.
E. G. Stanley, 8th September, 1833.)

14 Feb.
Lease granted
to A.
Fotheringham
at Darling
harbour.

Sir, Government House, 14th February, 1833.

Referring to your letter of the 27th April last, enclosing the Copy of a Memorial addressed to the Secretary of State by Mr. Alexander Fotheringham, praying a piece of Land in Sydney on which to erect a Patent Slip, and the answer which was returned to it, I have the honor to inform you that, in consequence of the recommendation which that answer contained, I have granted on lease for seven years to Mr. Fotheringham at the annual rent of twenty pounds a small slip of Land situated at Darling Harbour, on which he is now placing his Patent Slip. I adopted this course at the earnest entreaty of Mr. Fotheringham, who apprehended that, if the Site were put up to Auction, the price, to which Persons unfriendly to his undertaking or having their own objects in view might raise it, would prevent

his obtaining it upon terms to which his Capital is equal. Considering the great advantage which the trading part of this community is likely to derive from Mr. Fotheringham's Machinery, and not perceiving in what other way I could effectually promote his undertaking, I agreed to give him the lease I have mentioned. If in so doing the Secretary of State shall be of opinion that I have exceeded my Instructions or His Lordship's intentions on behalf of Mr. Fotheringham, I shall be glad to be so informed that I may not err in the same way on any future occasion of similar recommendations from the Secretary of State's Office.

1833.
14 Feb.

Lease granted
to A.
Fotheringham
at Darling
harbour.

I laid the Papers on this occasion before the Executive Council, requesting their opinion upon the expediency of granting the lease, which was recommended by two of the Members, the other two recommending a Sale.

Opinion of
executive
council.

I have, &c.,

RICHD. BOURKE.

VISCOUNT GODERICH TO GOVERNOR BOURKE.

(Despatch marked "Circular," per ship Captain Cook.)

Sir,

Downing Street, 1 March, 1833.

1 March.

An humble Address having been presented to His Majesty that he will be graciously pleased to give directions that there be laid before the House of Commons a List of all Clerks or others, admitted for the first time to any Civil Office in the Colonies since 30 May, 1830, stating the age of each person, the date of his Appointment, the Office or duty appointed to, and the Salary and Emoluments granted to each, and whether the Appointment was made to fill up a vacancy by death, dismissal, resignation or superannuation, and whether any and what superannuated allowance, pension, or allowance was granted, and after how many years service; And His Majesty having been graciously pleased to accede to the same, I have to desire that you will cause a Return, as required by the House of Commons, to be prepared according to the enclosed Form, so far as relates to the Colony under your Government, and that you will transmit such Return to me with the view of its being laid before the House of Commons.

Return required
by house of
commons re
civil clerks.

I am, &c.,

GODERICH.

[Enclosure.]

[A copy of this form is not available.]

1833.
10 March.

VISCOUNT GODERICH TO GOVERNOR BOURKE.

(Despatch No. 151, per ship Waterloo; acknowledged by Governor Bourke to under secretary Hay, 17th August, 1833.)

Sir, Downing Street, 10 March, 1833.

Transmission
of order-in-
council.

With reference to my Dispatch of the 25th of December, 1832, No. 148, I do myself the honor of transmitting herewith, for your Information and guidance, an Order of The King in Council, bearing date the 4th Ultimo, for dissolving the Church and School Corporation, established in New South Wales.

I am, &c.,
GODERICH.

[Enclosure.]

AT THE COURT AT ST. JAMES', THE 4TH OF FEBRUARY, 1833.

PRESENT:—The King's Most Excellent Majesty in Council.

Order-in-
council for
dissolving
church and
school
corporation.

Whereas His late Majesty King George the fourth did, by certain Letters Patent* under the Great Seal of the united Kingdom, bearing date the 16th day of July in the year 1825, constitute and appoint Ralph Darling, Esquire, Lieutt. General of His said late Majesty's Forces, His Captain General and Governor in Chief in and over the Territory of New South Wales and its Dependencies; and whereas, by certain additional Instructions* under His said late Majesty's Signet and Sign Manual, accompanying and referred to in the said Commission, His said late Majesty did require and command the said Ralph Darling to affix the public Seal of the said Colony to certain Letters Patent for erecting therein a certain Corporation by the name of the Trustees of the Clergy and School Lands in the Colony of New South Wales, in such manner and form as in and by the said additional instructions is in that behalf provided and set forth. And Whereas, in pursuance of the said additional Instructions, the said Ralph Darling did, on the 9th day of March, 1826, issue under the public Seal of the said Colony certain Letters Patent* constituting and erecting the said Corporation, and it was thereby, amongst other things provided, and His said late Majesty did thereby declare it to be his Will, and did ordain that it should be lawful for His said late Majesty, His Heirs and Successors, by any order to be issued by him or them for that purpose with the advice of His or Their Privy Council, to dissolve and put an end to the said Corporation in case it should appear to His said late Majesty, His Heirs and Successors, with the advice aforesaid, expedient so to do. And Whereas it doth appear to His Majesty, with the advice of His Privy Council, expedient to dissolve and put an end to this said Corporation, now therefore His Majesty doth, with and by the advice aforesaid, hereby dissolve and put an end to the said Corporation, and the same is by this present order dissolved accordingly. And the Right Honorable Viscount Goderich, one of His Majesty's Principal Secretaries of State, is to give the necessary directions therein.

C. GREVILLE.

* Note 8.

UNDER SECRETARY HAY TO GOVERNOR BOURKE.

(Despatch per ship Waterloo; acknowledged by Governor Bourke,
6th December, 1833.)

1833.
10 March.

Sir,

10th March, 1833.

Although an account is kept in this Department of the respective sums, which may have been ordered in favour of Emigrants proceeding to New S. Wales, yet a more accurate view will be obtained of the amount actually expended upon this Service by means of the following periodical Returns, which the Secy. of State requests may be transmitted to him, commencing from the 8th of each month:—

Returns
required of
advances to
and details re
immigrants.

1st. A Return specifying the advances made to Mechanics;

2nd. A Return specifying the Bounties paid on account of Females. These Returns are intended to supersede the present system of acknowledging separately the receipt of each Despatch relating to these payments, and should therefore contain, under distinct heads, the number and date of each Despatch, the day on which it may be received, the name of the Emigrant to whom it may relate, the Ship by which the Party may have arrived, and the amount which may have been paid on account of each Individual. In addition to which information, a Column should be reserved for such remarks as circumstances may call for, and the manner in which the Emigrant may have been enabled to dispose of his Services should, in particular, be stated to enable this Department to answer any enquiries which may be received from Friends or Relatives upon that subject.

Lord Goderich further desires you will transmit to him retrospective returns of both Sexes, prepared upon the same principle as those first mentioned, of all Emigrants who may have arrived in the Colony, previously to the receipt of this Despatch.

In order that some estimate may be formed of the extent of the aid, which can be annually afforded towards the assistance of Emigrants, without encroaching too extensively upon other Services for which it may be necessary to provide, you will give the necessary directions that quarterly abstracts be prepared, and transmitted to this Office, of the territorial Revenue of New South Wales, specifying the sums which may have been already paid into the Treasury, and what portion of them will be applicable to the above Service.

Quarterly
abstracts of
territorial
revenue
required.

I have, &c.,
R. W. HAY.

1833.
11 March.

GOVERNOR BOURKE TO VISCOUNT GODERICH.

(Despatch No. 29, per ship Sovereign; acknowledged by
right hon. E. G. Stanley, 7th September, 1833.)

My Lord, Government House, 11th March, 1833.

Claim by
R. Bourke to
exemption
from customs
duty.

I have the honor to inform Your Lordship that, on my arrival here in December, 1831, and landing various Articles of outfit, which I had brought with me from London, the Officers of Customs made a charge for duty on some Foreign Wine, which I had brought for my own use solely. Not recollecting to have been charged whilst at the Cape of Good Hope* any duty upon articles received for my own consumption, and conceiving that, as the King's Representative in this Colony, I am entitled to exemption from duty upon what is imported for my own use, I objected to make the required payment. The Officers here having stated the matter to the Commissioner of Customs in London, the latter have replied that they are not aware of any Law exempting Articles imported by the Governors of Colonies for their own use from payment of duty. Being however still of opinion that the exemption I claim is both reasonable and conformable to precedent, I beg leave to submit the question for your Lordship's Commands.

I have, &c.,
RICHD. BOURKE.

GOVERNOR BOURKE TO VISCOUNT GODERICH.

(Despatch No. 30, per ship Sovereign.)

My Lord, Government House, 11th March, 1833.

Removal of
officers of
customs for
misconduct.

I have the honor to enclose the Copy of a letter, addressed to the Colonial Secretary by the Collector and Comptroller of Customs at this Port, informing him of the misconduct of Mr. Wm. Taylor Jay a Clerk, and Mr. Thomas Byrne a Tide Waiter in their Department. These Officers being in consequence of this misconduct removed from their respective employments, I have named Mr. Francis Vinet, late a Clerk in the Colonial Secretary's Office but reduced on the 1st of January last, to fill the Vacancy made by the removal of Mr. Jay. By this appointment, I have saved the payment of one year's salary (£180), to which Mr. Vinet was entitled on reduction, having served more than five years in the Secretary's Office. The Salary paid to Mr. Jay was £200 per annum; but I have not ordered more than (£180) per annum to be paid to Mr. Vinet, such having been the Salary of his former Office in the Colonial Secretary's Department. I have

Appointment
of F. Vinet.

* Note 9.

to solicit the confirmation of this appointment both for the benefit of a respectable public Servant and to save the Colony the charge for compensation which will otherwise accrue.

1833.
11 March.

Your Lordship will perceive that the Collector and Comptroller of Customs have made a distinction in the cases of Mr. Jay and Mr. Byrne, conceiving, as I understand, that it may be proper to restore Mr. Byrne to his employment after a short suspension. I cannot however recommend such a measure, as I conceive Mr. Byrne to have entirely abandoned his duty and, by concealing the irregularities of Mr. Jay, to have exposed the Revenue to loss.

Case of
T. Byrne.

I have, &c..

RICHD. BOURKE.

[Enclosure.]

MESSRS. J. BROWN AND B. LANGA TO COLONIAL SECRETARY MACLEAY.

Sir, Custom House, 11 February, 1833.

We do ourselves the honor to transmit herewith, for the information of His Excellency the Governor, a letter received by us yesterday "Sunday" from Mr. Thomas Byrne, one of the Established Tide Waiters, who has been employed in the Warehouse Keeper's Office from the period of our taking Charge of the Department, viz., 1st Feby., 1829. It appears by this letter that a Clerk in the Long Room, Mr. William Taylor Jay, received on the 16th October last the sum of £51 17s. from Mr. Lyons, which he appropriated to his own use, for duties on a pipe of Brandy, the Merchants three entries for which he destroyed, at the same time signing an order for the Warehousekeeper unknown to that Officer on the Locker to deliver the Pipe of Brandy from the bonded Warehouse, the duties being paid upon the same.

Misappropriation of money
by W. T. Jay.

It also appears that, on two Subsequent occasions, the 18th Novr. and 1st Decr. following, Mr. Jay received two other Sums amounting to £85 11s. 11d. for Duties on two puncheons of Rum; that he in like manner made away with the Merchants' Entries, Signed orders on the Locker for the Warehousekeeper for the Delivery of the Rum, and applied the Duties to his own use.

Being pressed by Byrne to make good the money, he procured entries to be passed for one of the puncheons of Rum, the Duties upon which were accordingly brought to the Credit of the Crown, still retaining the Duties which he had received on the Pipe of Brandy and the other puncheon of Rum Amounting to £90 9s. 8d.

We beg to state that, immediately on the receipt of the enclosed letter, we sent for Mr. Jay, who admitted the truth of Byrne's Statement, and promised to pay us the whole of the deficiency immediately, which promise he has fulfilled.

Confession
by W. T. Jay.

We now feel it our duty respectfully to recommend that His Excellency The Governor will be pleased immediately to dismiss Mr. William Taylor Jay from the service of His Majesty's Customs, at the same time we feel it equally our duty to recommend that Mr. Thomas Byrne be suspended until the pleasure of His Majesty's Commissioners of Customs shall be known.

Request for
dismissal of
W. T. Jay and
suspension of
T. Byrne.

Although we most reluctantly submit the propriety of this latter Officer's Suspension, his Character and regularity in the execution

1833.
11 March.

of his duty being highly Commendable up to the period of this transaction, we Consider his conduct unwarrantable in allowing Mr. Jay to continue embezzling the public Money and Concealing the Same from us between three and four Months.

We have, &c.,

JAS. BROWN, p. Coll.
BURMAN LANGA, Comp.

[Sub-enclosure.]

MR. T. BYRNE TO COLLECTOR AND CONTROLLER OF CUSTOMS.

Gentlemen, Custom House, Sydney, 9th February, 1833.

Report by
T. Byrne on
embezzlement
by W. T. Jay.

I beg leave to inform you that, on the 16th October last, there was a Warrant short for the delivery of a Pipe of Brandy, and, on applying to Mr. Jay, was told that a deposit had been left by Mr. Lyons and he would get it passed. He said the same every morning for upwards of a week, when I discontinued asking him for it, through his saying that Mr. Lyons did not then come to the Custom House, but that he would call on Mr. Lyons and have it passed. I certainly had not the most remote Idea that Mr. Jay was acting improperly with the Money, but merely believed him, and, knowing him to be so dilatory, attributed it to an Act of that description. Mr. Jay still kept telling me he could not meet Mr. Lyons; when on the 18th November another Warrant was short by Mr. Tingcombe; he likewise said it was a deposit and promised daily to get them all passed; and on the 1st December a third was short by Mr. Samuel, to which I was told a similar Story by Mr. Jay. I then told him he had better get them all passed as it was irregular to allow them to lay over so long; he put me off from day to day promising he would; at the end of the quarter. Mr. Jay was absent through illness. I waited on him and told him he must get the Warrants that were behind hand passed, as I could not allow them to lay over any longer without acquainting you; he said he would as soon as he returned to duty, and begged I would not mention it to you. I did not. And on his return to Office I reminded him of his promise to pass the Warrants; he promised as usual. I remonstrated with him on the impropriety of keeping them back so long, adding that I must certainly let you know. A few days longer was begged, and a request that I would not tell you. I pressed him daily since, and in a subsequent conversation he told me he had applied the money to his own use to extricate himself from some difficulties, and that he could obtain sufficient to cover the amount wanting from his friend Mr. Riley, when he should come to Town, and begged for God's sake that I would not mention it as it would certainly be his ruin for ever. I then put it off till his friend did come to town, when the following Morning he showed me two notes which he said he would get discounted, and pass the Warrants directly. I felt satisfied he was about to pass them then, but, on asking him the day following (knowing that one Note for £80 was discounted), if he had passed any of the Warrants, he replied that he had not received the whole of the proceeds and requested time to get the other Note Cashed with a third he said he was to get from Mr. C. Cowper; that he would pass the whole at once; I pressed him every day this week, and told him plainly I would not allow them to remain any longer, let the consequence be what it would, when he told me on Thursday (as I was that day fully intended to tell), that rather than meet the disgrace it would occasion him, he would go and blow out his brains, and promised

positively to pass them next day if I would not then tell, which Day he passed the one for Mr. Tingcombe's Punchoon; and as, from his so frequently breaking his promise, I could not rely on his passing the other two, I therefore consider it my Duty to apprise you of the facts as I do not feel justified in withholding the circumstance any longer.

1833.
11 March.

I am, &c.,

THOMAS BYRNE.

Warehoused.—6 May, /29, Ex "Wm. Young," Reynolds, Leith, by E. M. Scott, E.M.S. 7—1 Pipe; 122 Galls. Brandy; cleared 15 Octr., /32, by S. Lyons. 12 May, /32, Ex "Royal Admiral," Fotheringham, London, D. G. and Co. 145—1 Pun. Rum, 108 Galls.; Bonded by Dawes and Co.; cleared 17 Nov., /32, by Mr. Tingcombe. Duty paid on this on last Friday. 1 Mar., /32, Ex. Lord Byron, Frazer, Liverpool, by J. Holt, J.H. "16—1 Pun. Rum, 104 Galls.; cleared 1 Decr., /32, by Lewis Samuel. Duty paid on this on last Friday.

Particulars
re spirits.

GOVERNOR BOURKE TO VISCOUNT GODERICH.

(Despatch No. 31, per ship Sovereign; acknowledged by right hon. E. G. Stanley, 28th September, 1833.)

My Lord, Government House, 14th March, 1833. 14 March.

Having lately had occasion to bring before the Executive Council some propositions of the Collector of Internal Revenue upon the subject of Quit Rent due to the Crown in this Colony, and taking into consideration the right of redemption guaranteed to the payees at Twenty years' purchase, the Council were unanimous in opinion that it would be desirable to reduce the rate of Purchase to Ten years. They rest this opinion upon the following grounds:—First, that the usual rate of Interest in the Colony is Ten per Cent., such being the terms upon which the Banks Discount, and, though many private Loans are contracted at a higher rate of Interest, none are obtained at a lower; Secondly, the very few applications for redemption, which have been made in a considerable period of time, shew that the present terms are not agreeable to the landed Proprietors; Thirdly, the difficulty of collecting Quit Rent renders it an object to the Government to dispose of it, and thus avoid the expense and inconvenience, which must result from having recourse to levies by distress and other harsh measures for its collection. Again the different rates of Quit Rent imposed by the various regulations, made during the administration of my Predecessors, furnish much matter of complaint, and the hardship is much insisted on by those who are called on to pay the highest rates, a complaint which would be in some degree removed by allowing a redemption at any easy price.

Proposal for
redemption of
quit rents at ten
years' purchase.

I am disposed to concur in opinion with the Council and to recommend the proposal to Your Lordship's favorable consideration. Its adoption need not interfere with the measure of grace, which I propose to Your Lordship in my Despatch of the 9th April, 1832, No. 49, and to which Your Lordship has replied in the Despatch No. 129, 3 Octr., 1832, Just now received. No

1833.
14 March.

intimation of my having proposed such a measure has been made to the Public or to the Council, and I shall not make any communication on the subject until I shall have received Your Lordship's further commands.

Annual amount
of quit rents.

The Amount of Quit Rent payable annually in Sydney from allotments disposed of to the 31st December last will reach to about £2,000. So few of the Deeds have yet been issued, not even a fourth of this sum has yet been received for any one year. I am urging expedition in the Department of the Colonial Secretary and Surveyor General, upon whose operations the preparation of Deeds generally throughout the Colony chiefly depends. The annual amount of other Quit Rents (not including those on Land purchased under Ancient regulations at 5s. per acre) must I think exceed £3,000; but it is not possible in the present imperfect state of the Land Revenue Accounts to name the exact Sum.

I have the honor to transmit a copy of the Minute of Council to which I have alluded.

I have, &c.,

RICHD. BOURKE.

[Enclosure.]

Minute of
executive
council re
redemption of
quit rents.

EXTRACT from Minute No. 1 of the proceedings of the Executive Council on the 3rd January, 1833, on the subject of the redemption of Quit rents.

PRESENT:—His Excellency the Governor; The Hon. Lieut. Col. Snodgrass; The Venble. the Archdeacon; The Honble. the Colonial Secretary; The Honble. the Colonial Treasurer.

The Collector of internal revenue suggested the expediency of reducing the redemption of Quit rents to ten years' purchase instead of twenty, as at present required by the regulations, the current rate of interest in the Colony being 10 per Cent. per Annum; and the Council advised that this proposal should be recommended by His Excellency the Governor to the favorable consideration of the Right Honorable the Secretary of State.

A true Extract:—E. DEAS THOMSON, Clk., Col.

GOVERNOR BOURKE TO UNDER SECRETARY HAY.

(Despatch per ship Sovereign; acknowledged by under secretary Hay, 26th October, 1833.)

15 March.

Sir, Government House, 15th March, 1833.

Claim for
salary by
J. Busby.

At the request of Mr. James Busby lately appointed British Resident at New Zealand, I have the honor to transmit the accompanying letter. Mr. Busby is desirous of obtaining full Salary during the time he remains here on his way to his ultimate destination. He arrived about the Second Week of last October, and was not immediately sent forward on his Mission, as I expected to be informed of the passing of the Bill

introduced into the House of Commons by Viscount Howick, of which the Secretary of State furnished me with a Copy in His Lordship's Despatch of the 14th June, 1832, No. 103, and upon which a Legislative measure was to emanate from this Council, calculated to give effect to the objects of Mr. Busby's appointment. I have lately ascertained that the Bill introduced by Viscount Howick has not been carried through the House of Commons; but I have not been informed by any communication from the Secretary of State on the Subject, whether the proposed measure is altogether abandoned or whether a Bill will be again introduced into the next Parliament. However, as to the further detention of Mr. Busby, I do not think it likely to continue above one Month from this time, and that, upon the arrival from Van Diemen's Land of the *Imogene* (the Ship of War now on this Station), I shall despatch Mr. Busby to New Zealand with such Instructions, as I may legally give. Mr. Busby will thus have remained here about seven months from the date of his arrival; and, considering what time he required for his own purposes and the rate of Salary at which he is paid, I am not of opinion that he can complain of being allowed half Salary only during this period of inactivity.

Mr. Busby further states in his letter that he expected a complete House would be provided for him in New Zealand, and expresses great disappointment at the limited accommodation I have directed to be provided for him. I have no other Instructions on the subject than those contained in Your letter of the 15 June, 1832, and I have not considered those to authorize an expense of from six to eight hundred pounds to provide the Resident with a House to be considered as an Emolument of his Appointment. Your letter appears to me to point at temporary accommodation only, and that, which I have directed to be provided, will cost about 300 pounds.

With regard to the Mechanics, whom Mr. Busby wishes to accompany him and to be appointed constables, such Persons could not be engaged under an expense of at least £80 per annum each, which would add materially to the cost of the mission. Without the authority of the Act of Parliament already mentioned, Constables cannot legally act in New Zealand; and I am of opinion that, under any circumstance, it would not be advisable to send out any Europeans as Assistants to the Resident, whose efficiency must entirely depend upon the good understanding he maintains with the Native Chiefs, and from whose tribes, if paid Assistants should be required, it will be the Resident's Policy to select those Persons.

I have, &c.,

RICHD. BOURKE.

1833.
15 March.

Reasons for
detention of
J. Busby.

J. Busby to sail
in H.M. ship
Imogene.

Proposed
payment of
half salary.

House provided
for J. Busby.

Mechanics
proposed as
constables.

Objections
to proposal.

1833.
15 March.

[Enclosure.]

MR. J. BUSBY TO UNDER SECRETARY HAY.

Sir, Sydney, New South Wales, 12 March, 1833.

Letter of
complaint by
J. Busby.

It gives me pain to trouble you, at so early a period after my appointment, by referring any matter connected therewith to you. I cannot however, in justice either to myself or to my view of what is due to the Public Service, refrain from requesting His Excellency General Bourke to transmit this letter and its enclosures, together with any observations he may please to add upon its contents. Upon the first point, the Governor in acting up to the letter of His instructions has not necessarily shewn himself adverse to my claim, as it arose out of a case not provided for; But, on the second point, he has conceived himself limited by his instructions to decide differently from what I humbly apprehend to have been the intention of the Right Honorable the Secretary of State.

Claim to full
salary after
arrival at
Sydney.

The first point is whether I should receive full salary from the day when I arrived at Sydney and placed myself under the Governor's orders, or whether I should continue to receive only half salary up to the date upon which I should enter upon the duties of my office at New Zealand.

When I reported myself to the Governor on the day after my arrival at Sydney, the Challenger Ship of War was then in the harbour, and was expected to sail in three weeks, and to touch at New Zealand. On His Excellency observing that this would give me sufficient time, I replied that I feared not, and that it would be extremely inconvenient for me to have less than six weeks or two months to arrange my affairs. Had the Governor however intimated his desire that I should proceed by the Challenger, which did not sail till four weeks after my arrival, I would of course have prepared myself to accompany her under any circumstances; but two days afterwards he relieved me from all uneasiness on the subject by informing me that on further consideration he did not think my going to New Zealand would be of any use till the arrival of the "South Sea Islands Bill" should have enabled him to invest me with the necessary authority.

At any period after the expiry of two months from the date of my arrival at Sydney, I could have been prepared in a few days' notice to proceed to my destination; but, although another opportunity of proceeding by a Ship of War presented itself, the same cause has hitherto withheld the Governor from sending me. Under these circumstances, I think it will appear only equitable that I should receive full salary from the date of my being perfectly ready to enter upon my duties, that is, from two months after the date of my arrival at Sydney. But, as you are perfectly aware of the Sacrifices I have already made in the Public Service and the reduced state of my circumstances in consequence, I appeal to you with perfect confidence to determine, whether, under all the circumstances of the case, I should not be fairly considered as entitled to full Salary from the date of my having placed myself under the orders of the Government on my arrival at Sydney.

The other question, which I think it my duty to bring under your review, is one which does not merely affect me as an individual, but to a certain extent, as I conceive, involves the credit of the

British Nation. Within a week after my arrival at Sydney, I received a letter from the Colonial Secretary requiring me "to submit a plan and estimate of such a structure as I should consider sufficient for my residence at New Zealand." I accordingly submitted the plan of a very modest cottage, which I certainly thought was more likely to be objected to as unsuitable to my station than as being on too expensive a scale. And I trust that, on inspecting the ground plan, a copy of which is herewith transmitted, you will give me credit for a desire that the instructions of the Secretary of State should be carried into effect with the strictest regard to economy. The Estimate for this cottage to be prepared by contract in Sydney was £592 15s. 4d. But, as the Revd. William Yate, one of the Missionaries at the Bay of Islands, was shortly expected in Sydney, the Governor deferred coming to a decision until it should be ascertained whether that gentleman could not suggest a more economical mode of proceeding than to take a complete House from Sydney.

On Mr. Yate's arrival, he was accordingly consulted, and he recommended that the doors and window sashes and those parts of the House, the value of which consisted more in the workmanship than the materials, should be sent from Sydney, as all the bulky materials could be procured with more advantage at the Bay of Islands. At the same time having learned that there was abundance of brick earth at that place, I suggested that a substantial brick cottage might be erected at little more expense than one entirely composed of wood; and I also submitted a plan, which had occurred to me, and which if adopted would make the expense, either of the one or the other, fall very lightly upon the Government. This was that whatever constabulary or civil force should be allowed me to enforce my authority over the runaway convicts and others should consist of mechanics, who for a small addition to the wages of a mechanic would also engage to act in the capacity of constables.

The Governor had, however, in the mean time referred the plan to the Colonial Architect to report whether a less expensive structure could not be fitted up in the first instance for immediate use as a temporary dwelling; and that officer reported that, if the front rooms only were constructed in Sydney, they could be added to afterwards on the spot. His Excellency accordingly decided upon this plan and informed me by a letter from the Colonial Secretary under date the 16th February last that, "as the Home Government had authorized nothing more than the frame of a House to be made in Sydney and put up in New Zealand by the Carpenters of the Ship of War, which was to convey me to that station, he did not consider himself empowered to provide me with a House as an emolument of my appointment." He had accordingly directed that the front part of the cottage, consisting of two rooms and a Lobby, "should be prepared in so complete a manner as to afford me as convenient a temporary dwelling as circumstances would permit, to which I might, if I thought proper, make such additions and supply such finishing as I might think necessary, and apply to the Secretary of State to be reimbursed the expense."

It will appear by the correspondence, copies of which I have done myself the honor to transmit with this letter, that, in order to account for the use of the expression "frame of a House," I laid before the Governor a copy of the Memorandum I had the honor

1833.
15 March.

Negotiations by
J. Busby with
R. Bourke re
residence.

1833.
15 March.

Negotiations by
J. Busby with
R. Bourke *re*
residence.

to submit to you on the 22nd May, 1832, and of your reply of the 30th of the same month. I submitted to His Excellency that, as there was a clear and specific answer returned to every point to which my Memorandum referred, if it had been intended to alter or modify the meaning of my request that "a House should be furnished in frame," that intention would doubtless have been stated with the same precision as the answers to the other points of my Memorandum, and not by a mere change of expression to "the frame of a House" as in your despatch to the Governor, or the "frame work of a House" as in your letter to me. His Excellency also stated his "belief that it was not the intention of the Secretary of State that I should be provided with a House as an emolument of my appointment, as Mr. Under Secretary Hay in his letter of the 14th June had evidently authorized the preparation of the frame of a House in Sydney from having been given to understand that materials for the purpose could not be easily found at the place where I will have to establish my residence." In reply to this, I submitted to His Excellency that this could not be the case, as I had a distinct recollection of your asking of me questions relative to the trade both in Timber and Flax, which shewed that you were perfectly aware that Timber was constantly exported from New Zealand.

I submitted that the real causes were, first, the necessity for my being furnished with proper accommodation as it was my intention to be married before I proceeded to New Zealand, and my inability owing to the want of funds to provide a House for myself; And, Secondly, the doubt whether it would be practicable for me to put up a House at all, and if practicable the certainty that the expense would be enormous. The two last reasons only were stated in my Memo.; but I have no doubt the others will be recollected either by yourself or Mr. Short. I think it can scarcely be requisite to recal to your recollection the urgency with which I applied for some further remuneration for services, which I had rendered in the Colony under inducements that had been held out, and had never been realized, in order (as no outfit was allowed me) that I might be able to proceed to my destination under circumstances that would command respect. I think also that I could not have failed to explain that the reason Mr. Coates, Secretary to the Church Missionary Society (on whose authority I made the Statement), considered it doubtful whether it would be practicable for me to put up a house, altho it was otherwise with the Missionaries, was that a certain number of mechanics called Missionary Settlers are attached to the Mission, by whom, with the assistance of natives instructed by them, the houses of the Missionaries were built; But that these persons could not be hired by me or by any other individual unconnected with the Missionary Society; and he was not aware whether there were any other Mechanics at New Zealand.

Having thus endeavoured to convince the Governor that it would be more consistent with his Instructions (which neither limit the number nor size of the apartments) to furnish me with a complete house than with the part of a house only, I most earnestly but respectfully submitted to His Excellency that my proceeding to New Zealand under such circumstances could not fail to be prejudicial to some of the chief objects of my appointment; That, even

in such a place as New Zealand, a couple of rooms could not be considered a becoming residence for a Functionary with the title of "British Resident"; That it would ill enable me to shew that hospitality to strangers and others which would be a part of the duty of my Station; And that it was little calculated to command the respect, either of the Natives over whom it is of such vital importance to acquire a moral influence, or of those British Subjects over whom I will have to exercise an invidious, and perhaps ill-defined superintendence.

I have also represented to His Excellency that I have no wish to have any property in the house, with which I think the Government ought to provide me, nor to receive any emolument from it farther than by its occupation as an official residence; and that, even if my circumstances could afford it (instead of its proving ruinous to them to make the attempt), it would be a case of extreme hardship that, out of a Salary which by every person with whom I have canvassed upon the subject is considered little adequate to the rank of my appointment, and the unavoidable expenses to which I shall be subjected, I should be called upon to expend one year's income (for, when the necessary outhouses which I have not asked the Government to provide are included, it will cost that sum at least) to provide, in addition to what the Governor has allowed, the necessary accommodations.

It has been, however, my misfortune to have failed in my endeavours to induce His Excellency to come to a different conclusion; and I am to be furnished with only one half, and that, according to the report of the Architect, by far the least expensive half of the very humble accommodations I have requested.

Under these circumstances it is with no ordinary feeling of confidence that I refer it to your decision, whether I am to put up with a couple of rooms and a Lobby, as allowed me by the Governor, or whether the place which I submitted shall be completed at the Public expense. I am perfectly satisfied, from all my negotiations relative to this business, that the Right Honorable the Secretary of State, in ordering me to be provided with the frame work of a House, neither intended *only part of the Materials of a Complete House*, as the Governor appears at one time to have thought, nor *the complete materials of part of a House*, as he has finally decided; and that, though His Lordship attached to his order a condition that it should not occasion any considerable outlay. He would not. I feel persuaded, Consider £600 (should that sum be necessary) as an exorbitant charge to provide me with a residence, when (according to the Statement of the Revd. Mr. Yate) one of the Missionaries is living in a house which it cost £1,200 to erect.

That such a heavy charge is requisite to provide such indifferent accommodation is a proof of the correctness of my Statements upon this Subject, and, instead of inclining His Lordship to throw any part of the expense upon me, will, I humbly trust, only appear an additional proof of the hardship of doing so.

I can now only throw myself upon your indulgence to pardon this long detail, and

I remain, &c.,

JAMES BUSBY,

British Resident at New Zealand.

1833.
15 March.
Negotiations by
J. Busby with
R. Bourke *re*
residence.

Appeal to
secretary of
state.

1833.
15 March.

[Sub-enclosure.]

COPIES of Correspondence between James Busby, Esqre., and The
Honorable The Colonial Secretary.

[1] COLONIAL SECRETARY MACLEAY TO MR. J. BUSBY.
(No. 32/1.)

Plan and
estimates for
house to be
submitted.

Sir,
Colonial Secretary's Office, Sydney, 23rd October, 1832.
The Right Honorable the Secretary of State having been pleased to approve of
the preparation at Sydney of the Frame of a House to be taken by you and set up at
New Zealand,

I have the honour by direction of His Excellency the Governor to request that you
will procure and submit for approval a Plan and Estimate of the expense of such a
Structure, as you may consider sufficient for a Residence on your Arrival in that
Colony.

I have, &c.,
ALEX^r. MCLEAY.

[2] MR. J. BUSBY TO COLONIAL SECRETARY MACLEAY.

Submission
of plan and
estimates.

Sir,
Sydney, 29th October.
In compliance with the instructions conveyed in your letter of the 23rd October-
Inst., No. 32/1, I have procured from Mr. Verge, Architect, the Plan and Estimate of
the expense of a house to be prepared here, and erected at New Zealand, which I beg
you will do me the favor to lay before His Excellency the Governor.

I have, &c.,
JAMES BUSBY.

[A copy of this plan* will be found in the volume of charts and plans.]

[3] MR. J. VERGE TO MR. J. BUSBY.

Report by
J. Verge as
architect.

Sir,
Sydney, 8th Novr., 1832.
I have sent you a Design for a house intended for your residence in New Zealand,
which I hope will meet your approbation. It is to be framed in Sydney, weather
boarded outside, and lath and plaster inside.

In this Plan I have studied economy as much as convenience, as everything will be
very plain; the rooms, Stores, and closets may appear numerous, but they are small;
and I think you could not dispense with any of those conveniences in a Country like
New Zealand.

The whole expense of Erecting and completing the same (if by Contract in Sydney)
I estimate at £592 15s. 4d., Five hundred and Ninety two Pounds 15s. 4d.

With a view to reduce this Estimate, I have enquired of several Gentlemen who
have establishments in New Zealand, if it would be possible to get a portion of the
Materials there at a cheaper rate than in Sydney; the result of that enquiry is that
you cannot depend on getting any part of them there, unless you take men with you
to procure them.

Under these circumstances, I think it would be better to procure all materials
here, more especially as the Building Timbers which are used here, are more durable
than any Timber that I have seen from that Country.

I am, &c.,
J. VERGE.

[4] MR. J. BUSBY TO COLONIAL SECRETARY MACLEAY.

Proposed
employment of
mechanics as
constables.

My dear Sir,
Friday, 11th January, 1833.
You mention that you thought it probable the Subject of my House would be
brought forward at the Council to Day. It has just occurred to me that, if whatever
constabulary force may be considered necessary were composed of Mechanics, a
House might be built at the Bay of Islands very economically, as a very small addition
to a Mechanic's pay would induce them also to act as Constables; And, after the
first brush, their Services in the latter Capacity cannot it to be supposed be
constantly required.

I remain, &c.,
JAMES BUSBY.

[5] MR. J. BUSBY TO COLONIAL SECRETARY MACLEAY.

Advice given by
Rev'd. W. Yate.

My Dear Sir,
Rockwall, 29th Jan'y., 1833.
I return you the Papers relative to my House, which you were kind enough to
give me two or three Days ago. I mentioned to the Governor at Parramatta that you
had misunderstood Mr. Yate as to its being unnecessary to prepare Doors and Window
Frames in Sydney and to send down Mechanics. Mr. Yate thinks you must have
taken that impression from another conversation which related to the proceedings of
the Missionaries, they having lately resolved to dispense with all hired Mechanics
and to depend upon the Native Mechanics whom they have themselves instructed.
Mr. Yate is decidedly of opinion that Doors and Window frames, and everything of

which the value consists more in the Workmanship than the Material, had better be sent from hence; and that no reliance could be placed upon getting mechanics there to do any part of the work.

I have learned from Mr. Yate and other persons acquainted with the Bay of Islands that there is abundance of Brick earth there, and I have also been informed that one Brickmaker with three Laborers (native Laborers would answer) could prepare a sufficient number of Bricks in three or four Months for a Cottage according to Mr. Verge's plan, and that one Bricklayer and Plasterer and one Joiner would be sufficient to put it up within the same time, and provided the Doors and Window Sashes and Frames were sent from Sydney.

Under these circumstances, I think a substantial Brick House might be built nearly, if not fully as economically as a Weather Boarded one; and I would propose that, instead of sending down the frame work of the two principal rooms in the first instance, as suggested by Mr. Hallen and approved by the Governor, The Frame Work and Doors and Windows of the Building, intended in the place for the Kitchen and Servants room, but divided into three instead of two apartments should be sent from Sydney. This would serve as a temporary residence while the Cottage was building and could afterwards be appropriated to its original destination.

According to your desire, I have endeavoured to ascertain for how much Mechanics might be procured to go down for the purpose of erecting the House. By the enclosed Letter from Mr. McPherson, you will see that it is his opinion that such mechanics might be obtained for £2 or £2 2s. a month with full rations. From what I have been able to learn in various other quarters, however, I am disposed to think that good workmen cannot be procured for less than double that rate of wages. Mr. Hallen informs me that his Brother never pays less than seven shillings a day to every Joiner and Bricklayer he employs, and that good workmen need never want employment at these Wages. I suspect therefore it is chiefly indifferent workmen that apply to Mr. McPherson, and certainly nothing could be more injudicious than to take any but men of the best character and abilities in their trade for such an employment.

It would not be requisite that the Doors and Windows for the Cottage should be sent immediately. It would be sufficient that they should be contracted for to be ready by the time the Cottage is ready for them, say three months. Conveyance to the Bay of Islands can be procured almost every week, and at a very cheap rate. It would be very desirable to insure their being well seasoned, that some of the Government Cedar, which it is proposed to sell, should be appropriated for the purpose of making the Doors and Window frames.

When the Governor honored me with an interview at Parramatta. I also had a conversation with him relative to the selection of presents for the Native Chiefs. I mentioned to him my wish to take a good suit of European clothing for each of the Principal Chiefs; and His Excellency desired me to communicate with you, when I should have ascertained the number of Chiefs to whom it would be desirable to give a full suit of English clothing.

I would therefore propose that cloth should be purchased sufficient to make Fifteen long dress Coats. I have reason to believe that Cloth of sufficient fineness might be procured at 12s. to 15s. a Yard, and, as it would take 2-4 Yards for each, the cost of this would not exceed £25. I think they could be made by Contract sufficiently well including all trimmings for £1 each, which would make the expense of 15 coats, £10. If drill trousers and Colored Waistcoats could be procured sufficiently large ready made, I think these Articles would not cost more than £1 for each. But, if made by contract and of very good materials (for to be acceptable, the Dress must be that of a Gentleman), they will perhaps cost £1 10s. for each Person; this will make the Amount £62 10s. The materials for 30 good Shirts might be procured for £4 10s. and these could be made in the Factory without expense. There would then be required 30 pairs Socks 1s. each, 15 pairs shoes 6s., 15 Handkerchiefs @ 1s., and 15 Hats 10s. each, to complete the Dress of the 15 Principal Chiefs of the Northern part of the Island. This would make the whole amount to about £83.

I mentioned to the Governor my great wish to make it an object of ambition with the leading chiefs to wear European Clothes and adopt European habits of cleanliness. By industry, they may have always sufficient means to procure them; and, by the attention with which I shall distinguish those who adopt this practice, I have no doubt of introducing a fashion in Dress, which will lead the way to other wants and originate a trade more desirable than the present one for Muskets and Gunpowder. It is for this reason that I am most anxious to give a full Suit of Clothing to the Principal Chiefs, even at the risque of encroaching so far upon the £100, which I proposed to Mr. Hay as sufficient, and which I dare say the Governor would not like to exceed, as to leave very little for Presents to others of less consequence. I should propose that £17, or whatever may be left after procuring the articles above enumerated, should be expended upon English Blankets, with a few Cotton Handkerchiefs and Belts, as recommended by Mr. Yate whose communication I herewith enclose.

I remain, &c.,

JAMES BUSBY.

1833.
15 March.

Possibility of making bricks.

Brick house proposed.

Probable wages of mechanics.

Doors and windows required.

Clothing proposed as presents for Maori chiefs.

1833.

15 March.

Explanation of
negotiations re
provision of
house.

[6] MR. J. BUSBY TO COLONIAL SECRETARY MACLEAY.

My dear Sir,

Rockwall, 4th Febr., 1833.

I beg to enclose to you herewith copies of a Memorandum delivered by me to Mr. Hay and of a Letter, which I received from him, in reply to the various points to which my Memorandum relates. This, as I mentioned to you, will account to the Governor for the use of the expression "frame work of a House," which His Excellency seems to consider as limiting him to furnish me with only two rooms for a residence at New Zealand, and will I have no doubt satisfy him that the expression was not intended to mean anything short of a Complete dwelling, such as has been frequently sent from Sydney, to be erected at New Settlements.

It will not escape His Excellency's observation that there is a clear and specific answer returned to each of my other suggestions, one of which is refused and another modified, but in both cases in language equally precise. I conclude therefore that the alteration in the expression could not have been intended to modify the sense, as, if any alteration had been intended, it is beyond a doubt it would have been stated with equal precision as the answers to the other suggestions. That this is a correct inference will further appear from the expression used in the next paragraph, that "the Carpenters of the Ship will be required to assist in putting up my House."

It may be further desirable to state that it was with great difficulty I could prevail upon the Secretary of State to agree to furnish me with a House, and it was only by urging my total inability to provide one for myself, and shewing that such inability was owing to the disappointment of the fair expectations I was led to form in the service of the Government, that he was at length induced to yield to my entreaty. But, although I mentioned my intention to be married before proceeding to New Zealand, and the consequent necessity for more accommodation than might be otherwise required, yet it was never once proposed that Government should furnish only part of a House.

When called upon by His Excellency shortly after my arrival at Sydney "to submit a plan and estimate of such a structure as I should consider sufficient for a residence on my arrival in New Zealand," I did not forget the anxiety for saving the Public Money which had occasioned the difficulty in granting my request; and I submitted a plan of a Residence, which I certainly thought was more likely to be objected to as unfit for my Rank, than for the extent of accommodation it afforded. And I am still of opinion that, should His Excellency conceive himself authorised to grant me a House at all, he would be very far from offering me a humbler Residence than the one of which I have submitted the Plan.

If the Estimate should not seem to come within the proviso in the Secretary of State's Despatch "that it shall not occasion any considerable outlay," I beg to remark that all expenses must be considered as relative, and that an expenditure of £600 ought not to be considered an exorbitant demand to provide a House for a Functionary with the Title of "British Resident at New Zealand," when one of the Missionaries at that place is residing in a House which cost £1,200 to erect.

I remain, &c.,
JAMES BUSBY.

[7] COLONIAL SECRETARY MACLEAY TO MR. J. BUSBY.

(No. 33/1.)

Sir,

Colonial Secretary's Office, Sydney, 16th February, 1833.

Decision by
R. Bourke re
frame of house
to be supplied.

Referring to your Letter of 29th October last, enclosing a Plan and estimate of a House proposed by you to be prepared here and erected at New Zealand as your Residence,

I have the honor, by direction of His Excellency the Governor, to acquaint you that, as the Home Government have authorised nothing more than the Frame of a House to be made in Sydney and put up in New Zealand by the carpenters of the Ship of War which is to convey you to that Station, He does not consider himself empowered to provide you with a House as an emolument of your appointment, nor does His Excellency imagine the Secretary of State intended it should be so, as Mr. Under Secretary Hay in his Letter of the 14th June evidently authorises the preparation of the Frame of a House in Sydney, from having been given to understand that materials for the purpose could not easily be found at the place at which you will have to establish your Residence.

Under this circumstance therefore, His Excellency has directed that the frame of a House agreeably to Mr. Hallen's alteration in the plan already referred to shall be immediately prepared in so complete a manner as to afford you as convenient a temporary Dwelling as circumstances will permit. to which if you think proper you can make such additions and supply such finishing as you may think necessary, and apply to the Secretary of State to be reimbursed the expense, as you appear to suppose it was intended by the Home Government that your House should be provided wholly at the Public charge.

With reference to the proposal contained in your Letter of the 29th of January last that a full Suit of European Clothing should be given to each of Fifteen principal Chiefs at New Zealand, and some Blankets, broad Belts and Cotton Handkerchiefs to those of lower rank,

I have also the honor to acquaint you that arrangements will be made for procuring these articles immediately.

1833.
15 March.

Presents
for Maoris.

I have, &c.,
ALEX. MCLEAY.

[S] MR. J. BUSBY TO COLONIAL SECRETARY MACLEAY.

Sir, Sydney, 20th February, 1833.

I have the honor to acknowledge the receipt of your Letter of the 16th Current, No. 33/1, informing me that, "as the Home Government authorised nothing more than the Frame of a House to be made in Sydney and put up at New Zealand by the Carpenter of the Ship of War, which is to convey me to that Station, His Excellency the Governor does not consider himself empowered to provide me with a House as an emolument of my appointment," But has directed that the Frame of a House, agreeably to Mr. Hallen's alteration in the plan submitted by me, shall be immediately prepared in so complete a manner as to afford me as convenient a temporary dwelling as circumstances will permit.

Letter
acknowledged.

In reply, I beg to state that I am much concerned to find that the explanations contained in my Letter to you of the 4th Current with its enclosures appear to have failed in convincing His Excellency that the "Frame Work of a House," as used in reply to my request of a "House in frame," was intended to mean nothing else than the *Complete Materials* of a House, in such a state that the Carpenters of the Ship of War could put it up during the Stay of the Ship at the Station.

But, as this is a question which involves to a certain extent the credit of the British Nation, and is of essential importance to some of the chief objects of my appointment, and not a matter merely affecting my private comfort, I conceive myself justified in Soliciting His Excellency's reconsideration of the Subject.

Request for
reconsideration
by R. Bourke.

In the first place, I would submit that Mr. Under Secretary Hay was perfectly aware that there was no want of materials for House Building at New Zealand, as he knew that considerable quantities of Timber were constantly exported in different States, thence to Sydney; and it was not therefore on this ground, as His Excellency the Governor supposes, that the frame work of a House was directed to be sent from Sydney. The real grounds were, as I have already stated, my utter inability to furnish the Funds for the erection of a House. This I urged upon Mr. Hay at more than one interview, and the probable impracticability of my Building a House there at all; and, if practicable, the certainty that the expense would be enormous. This I stated in a Memorandum, having reference to such conversations; and I may now add that this Statement, which was made on the authority of Mr. Coates, Secretary to the Missionary Society, is justified by the expense which the Houses, some of the Missionaries now occupy, have cost. I have no doubt also that the unreasonableness of requiring me to provide a House in such a Situation would have its due influence, after all the circumstances of the case had been fully considered.

I would, therefore, beg that His Excellency would do me the favor to ascertain from such Persons as were concerned in the erection of the "frame Work of Houses" or the "Houses in frame," which have been frequently erected at Sydney to be put up at New Settlements, what meaning they would attach to these expressions. The same question might also be put to many Emigrants, who are aware that such Houses are finished in London in the Most complete form for Shipment in frame to New Settlements. And if he should ascertain that by these expressions are meant a complete House, I would most respectfully but earnestly submit to His Excellency, whether a couple of Rooms is a sufficient Residence for the Representative of the British Government, even in such a place as New Zealand; Whether it is calculated to enable me to shew that hospitality to Strangers and others, which will be a part of the Duties of my Station; And whether it is placing me in such circumstances as to command the respect of the Natives once, where it is of so much importance, both for their own improvement and for the safety and success of the Traders, to establish a moral influence, Or of those British Subjects, whether temporary visitors in Whalers and trading Ships, or permanent residents once, where I will have to exercise a Superintendence of a Character perhaps ill defined, and under any circumstances invidious.

The Governor has stated his belief that it was not intended that I should have a House as an emolument of my appointment, and that I can, if I think proper, make such additions and supply such finishings as I may think necessary and apply to the Secretary of State to be reimbursed the expense. In reply to this observation, I beg to assure His Excellency that I have no wish to have any property in the House, with which I consider the Government ought to provide me; and that, though the emoluments of those Situations which I have had the honor to fill in His Majesty's Service have ever been with me a secondary consideration to the due fulfilment of the duties of them, yet it is quite out of my power to act upon his suggestion. I am now under the necessity of selling off all my property (and all I fear will prove insufficient) to satisfy the pecuniary obligations which I have already incurred; and I

1833.
15 March.

have felt too keenly the pain of such a Situation again to involve myself in such obligations unless under the most pressing necessity. Besides I have too much reason to fear that the Salary of my appointment will prove limited enough to enable me to fill my situation with credit. And what I believe to be almost without a precedent in appointments of a similar nature to mine, I have not received, as His Excellency is aware, a single Shilling to provide an outfit for it. On the contrary, when I urged upon the Home Government the payment of what I must always consider a just debt, I was informed that, if I accepted my present appointment, I must consider it a compensation for all past claims.

I have, &c.,
JAMES BUSBY.

GOVERNOR BOURKE TO VISCOUNT GODERICH.
(Despatch No. 32, per ship Sovereign.)

16 March.

My Lord,

Government House, 16 March, 1833.

Transmission
of return *re*
military
officers.

In compliance with the Instructions, contained in your Lordship's Despatch of the 7th August, 1832, No. 115, I have the honor to transmit for the information of the Right Honble. the Secretary at War A Return of all Military Officers on Full Pay in the Government of New South Wales, receiving Colonial Pay, in addition to their Military Pay, distinguishing those whose Duties are strictly of a Civil nature from those whose duties, although performed in the Service of the Colonial Government, are still of a Military Character.

I have, &c.,
RICHD. BOURKE.

[Enclosure.]

[A copy of this return is not available.]

GOVERNOR BOURKE TO VISCOUNT GODERICH.
(Despatch No. 33, per ship Sovereign; acknowledged by
right hon. E. G. Stanley, 22nd October, 1833.)

18 March.

My Lord,

Government House, 18th March, 1833.

Papers *re*
conviction of
murderers of
J. MacIntyre.

I have the honor to transmit a Minute of the Proceedings of the Executive Council in the case of the four Persons named in the Margin,* convicted before the Supreme Court of this Colony in December last of the Murder of the late Mr. John MacIntyre in the Autumn of 1830. The case is so extraordinary, I directed the Attorney General to prepare a full statement, which I forward herewith, and must beg your Lordship to peruse as the readiest way of obtaining such a knowledge of the facts as may enable Your Lordship to decide upon the propriety of recommending to His Majesty's consideration the course, which I take the liberty to advise.

Believing that the confession of *Charles James*, supported as it is by the discovery of the Watch of the late Mr. MacIntyre and

* *Marginal note.*—Thos. MacGrath, P'k Daley, Wm. Steele, S'l Ryan.

by other circumstances, contains a true history of the Murder, I would recommend that the Sentence of MacGrath be commuted to Transportation for Life to Norfolk Island. Notwithstanding that I have no doubt of his being guilty of the murder, yet, as he has been convicted upon false Testimony, I cannot venture to propose his Execution. I would recommend a similar commutation for Daly, whom I do not believe to have been a principal in the Murder, with an authority to me to grant him a Pardon, if he shall, within the next two years, give such information as may be the means of bringing to justice any of the Principals or Accessaries in the Murder. If his own evidence were necessary to effect this object, I would propose to grant him his pardon before he was produced in Court, as, after the late horrid exhibitions of perjury, I would not venture to bring forward as an Approver any person, whose own fate might seem to depend on the testimony he gave of the Deeds of another; Steele and Ryan being as I believe wholly innocent, I beg to recommend for His Majesty's gracious Pardon.

1833.
18 March.

Proposed
commutations
of sentences.

Proposed
pardons.

The Attorney General seems uncertain what to advise with respect to James or Clare. If it shall be possible to make out any clear and sufficient evidence upon which to bring both to Trial, I will recommend him to do so, as I do not consider the late confession of James to furnish any grounds for exempting him from the punishment due to his crime. It was not in consequence of his confession but upon the manifest discovery of the perjury of the Approver Doolan that the Executive Council recommended the respite of the four Persons convicted on Doolan's evidence.

Trials
proposed.

Your Lordship will perceive what the Attorney General has stated as to the admission in this Colony of the evidence of Convicts attaint. The opinions of the Judges Stephen and Dowling were given on a former occasion in favor of receiving this description of evidence. The Chief Justice took a view of the matter different from theirs, though not entirely opposed to the admission in some cases. I have reason to believe that the present Bench will reconsider the question, and probably either recommend the introduction of a Legislative Enactment suited to the particular circumstances of the Colony, or return to the practise of the Law of England.

Opinions *re*
evidence of
convicts attaint.

I have, &c.,

RICHD. BOURKE.

[Enclosures.]

[*These papers will be found in a volume in series II.*]

1833.
18 March.

GOVERNOR BOURKE TO VISCOUNT GODERICH.
(Despatch marked "Private," per ship Sovereign.)
Government House,

My Lord, Sydney, 18th March, 1833.

Report re
P. Campbell.

In reply to Your Lordship's letter of March last, covering one from Sir Colin Campbell and making enquiry for Mr. Patrick Campbell, who was temporarily employed by my Predecessor in the Department of Roads and Bridges in this Colony, but reduced when that Department was placed under the Surveyor General, I have the honor to inform you that Mr. Campbell's conduct whilst in the Colonial Service had not been as satisfactory as to induce the Surveyor General to apply for his restoration to employment at a time when it might have been practicable. At present Your Lordship is aware that the Department is undergoing reduction.

I have, &c.,
RICHD. BOURKE.

GOVERNOR BOURKE TO UNDER SECRETARY HAY.
(Despatch per ship Sovereign.)

20 March.

Sir, Government House, 20 March, 1833.

Refund of
over-issue of
salary by
C. D. Riddell.

In conformity to the Instructions, contained in your letter of the 27th May last, I called upon Mr. Riddell, Treasurer in this Colony, to pay into the Military Chest the Sum of £858 13s. 2d. on account of an overissue of Salary received by him, whilst holding the Office of Commissioner of Eastern Enquiry. Mr. Riddell in consequence proposed to pay the surcharge by two Bills on England for £400 each, the one at thirty, the other at ninety days after sight, and the balance of £58 13s. 2d. by cash to the Military Chest of the Colony on the 5th May next. I have acceded to this proposal, and Mr. Riddell has accordingly this day passed the Bills payable to the Deputy Commissary General on this Station, by whom they will be transmitted to the British Treasury.

I have, &c.,
RICHD. BOURKE.

GOVERNOR BOURKE TO UNDER SECRETARY HAY.
(Despatch per ship Sovereign.)

Sir, Government House, 20th March, 1833.

Report re
J. Matthews.

In reply to your letter of the 8th of November last, enclosing the Copy of one from Joanna Bate making enquiry concerning a Person called John Matthews, said to be detained in the Island of Melanta in the South Seas, and whom she believes to be her Brother, I have the honor to inform you that the

presence in Sydney of Captain Harewood, Master of the Whaler Hashmy, has enabled me to obtain the information, which will be found in the paper herewith enclosed. I will not fail to take any opportunity that may offer for procuring the escape of Mathews from Melanta, if he should be still there; but it is quite uncertain when such an opportunity may occur; and to engage a Ship to touch at the Island would require the expenditure of a larger sum than Lord Goderich has authorized.

1833.
20 March.

Proposed rescue
of J. Mathews.

I have, &c.,

RICHD. BOURKE.

[Enclosure.]

STATEMENT BY COLONIAL SECRETARY MACLEAY.

I HAVE seen Mr. Harewood, Master of the Hashemy Whaler, who delivered to me the enclosed literal copy of John Mathews' letter or rather of his writing on a Bamboo, which is now in possession of Mr. Smith Master of the Caroline Whaler in V. D. Land. There was no *Second* Letter or communication. This was found in possession of a Native of the Island of Metauba in Sept., 1831, but as there is no date to it the writing might have been much older. It is certain, however, that in Decr., 1831, Capt. Harewood had Six of his crew on the Island for nine days, and they say that, if there had been any white man with the Natives, they must have seen him. Capt. Harewood's opinion is that John Mathews must either have died or have left the Island before Decr., 1831.

Report re
J. Mathews.

20 March, 1833.

ALEXR. MACLEAY.

[Sub-enclosure.]

[*This was a copy of the letter printed in the "Sydney Herald"; see page 796, volume XVI.*]

VISCOUNT GODERICH TO GOVERNOR BOURKE.

(Despatch No. 152, per ship Prince George.)

Sir,

Downing Street, 22d March, 1833.

22 March.

I have received your Despatch No. 29 of the 28th February, 1832, on the subject of the claims of Messrs. Ferguson and Company of Calcutta to compensation for a piece of Land, adjoining the Government House at Sydney, formerly occupied by a Mr. John Palmer; and also respecting the proper means to be taken for recovering possession of a certain part of that Land, which still remains in the possession of Palmer's representative.

Despatch
acknowledged.

As it was stated in the concluding part of your Despatch that Mr. Steele, the Agent of Messrs. Ferguson and Co., was proceeding to London to prosecute their claim before me, the expectation of that Gentleman's appearance has induced me to postpone

Reasons for
delay in
instructions.

1833.
22 March.

those Instructions, which I should otherwise have addressed to you immediately upon the receipt of your Despatch. But, six months having now elapsed without my having received any communication from Mr. Steele, I am unwilling to subject you to the inconvenience of any further delay on that account.

Questions
submitted.

You have so fully recapitulated all the facts of the case that it would be superfluous for me to write any further summary of them. I, therefore, proceed at once to the consideration of two questions to which you call my attention. The first, Whether Messrs. Ferguson and Co. are entitled to be compensated for the Land of which Palmer was dispossessed, and, if so, what is the amount of the compensation due to them on that account. The second, What measures it is most convenient and just to take, in order to regain possession of the acre of ground and the stone Mill, which are still occupied by Messrs. Ferguson and Co. under the original Lease to Palmer.

Invalidity
of lease to
be waived.

With respect to the first of those questions, I observe that Governor King's Lease of the 31st March, 1802, is deficient in all the forms, which are, strictly speaking, essential to the validity of such an Instrument. But advertng to the irregularities, which universally, and perhaps inevitably prevailed at that early period, respecting the alienation of the Lands of the Crown, I think that no advantage should be taken of objections merely technical, but that this Document ought now to be considered in the same light as if it had been executed under the Public Seal of the Colony in His Majesty's name, and had contained within itself all those terms, which the Law requires, in order to transfer a legal interest in Land. The objection, derived from the want of authority in the Governor to grant a Lease of this nature, are derived from principles of a far more substantial character and of permanent application. It is of no light importance steadily to assert the maxim that a Grant, made by a Governor exceeding the limits of the powers confided to him by His Majesty, is inoperative and destitute of any legal effect. In applying that principle to the present case, it is however to be considered that the Instructions, which forbade Governor King to grant any Lands, cleared at the expense of the Crown, for a longer period than 5 years, would seem originally to have been aimed at a case very different from that of Mr. Palmer. The object was apparently to prevent persons, who enjoyed the favor of the Local Authorities, from obtaining, at the expense of the Public, Lands which had been cleared by an outlay of the Public Revenue. But the Lease to Mr. Palmer, however objectionable on other grounds, would not, on the face of it at least, appear to have been obnoxious to this charge. The Land on the West side

Power of
P. G. King to
grant lease to
J. Palmer.

of "Farm Cove" was not granted to him gratuitously, but as a remuneration for the surrender of a Lot in the Town of Sydney. Governor King had not, indeed, any legal right to effect such an exchange, except for the period of five years prescribed by his Instructions. Yet it must be confessed that such an infringement of them was far less palpably illegal, than would have been a similar Lease not supported by any such valuable consideration. I must suppose Governor Macquarrie to have felt the force of this consideration, when he made to Mr. Walker the proposals, contained in his letter of the 26th September, 1814; for, except on that supposition, I could scarcely avoid the inference that Governor Macquarrie's anxiety to enlarge the ground and buildings, occupied by himself, had rendered him forgetful of the Public interest, a conclusion which my respect for that Officer's memory renders me most anxious to avoid. It must be remarked, however, that the agreement to purchase the Buildings was expressly declared to be dependant upon the sanction of the Secretary of State, which seems never to have been obtained, although a formal application was made for that purpose. It might, therefore, not be inaccurately said that the condition, on which alone the liability of the Government was to arise, has never in fact been performed. Yet I should be unwilling to take advantage of any oversight which may have formerly been committed in the correspondence of this Department, or to deny that the silence of my Predecessors on the subject may be fairly considered, under all the circumstances of the case, as an implied approbation of Governor King's conditional Lease, after the objections to it had been so distinctly brought under their notice. I therefore cannot, with justice, avoid the conclusion that the sum of Five hundred and thirteen Pounds 1s. (the mean of the two valuations) must be considered as a debt due to the House of Ferguson and Company of Calcutta.

The acknowledgment of the liability of the Government to pay the Principal involves, as a necessary consequence, their liability to the payment of the Interest. But there are certain demands on the part of the Government, which, as it seems to me, may be fairly urged in reduction of this debt.

In the first place, the £513 1s., if I rightly understand the case, was to have been accepted as a remuneration for the removal of all the Buildings, including the Windmill, which is now standing. If so, as that Mill has not been removed, there should be a proportionate reduction from the amount of the valuation. In the next place, Messrs. Ferguson and Co., by their Agents, have had possession of the Stone Mill, with the acre of ground on

1833.
22 March.

Reasons for
grant of lease.

Settlement
proposed by
L. Macquarie.

Compensation
authorised.

1833.
22 March.
Reduction to
be made for
rent.

part of which it stands, without the payment of any Rent for a long course of years, altho' Governor King's Lease, on the construction the most unfavorable to the Crown, expired nearly ten years ago. In adjusting the account, Messrs. Ferguson and Company ought, therefore, to be charged with a reasonable Rent for the occupation of this property. It must, however, be admitted that a very serious difficulty would arise, if they were to repel such a claim by relying on their length of possession, and if they should insist that it has endured so long as to have ripened into a perfect right. For assuming the invalidity of Governor King's lease after the expiration of the first five years, it will follow that Messrs. Ferguson and Co., or those under whom they claim, have been in the adverse and yet undisputed possession of this property for no less than 26 years past.

Instructions
re settlement
of claim.

The result of the whole case, according to the best view I can take of it, is that you must offer to pay the demand of £513 1s. with Interest, subject to the deductions which I have mentioned; that, if those deductions are not admitted by Messrs. Ferguson and Co., you must refuse to make any payment, until you shall have consulted the Law Officers of your Government on the question; and that, if they should be of opinion that the deductions claimed would not be admitted by the Colonial Tribunals, you must abandon so much of the claim. But this is obviously one of those cases in which it is better to adjust the matters in dispute by a reasonable compromise, than to take the risk of a Judicial decision. You have, therefore, my authority to effect the best settlement in your power of the question, provided nothing more be paid than the sum of £513 1s. with Interest, and also provided that the Stone Mill and the acre of ground be surrendered up by the present Holders to the Government.

Neglect to
submit legal
opinions.

I cannot quit this subject without expressing my regret that, on such a subject as this, your Despatch should be unaccompanied by a Report on the questions in debate from the Attorney and Solicitor General of the Colony. It is a case, which would have fallen peculiarly within their cognizance; and I should have derived material assistance from their opinion, in estimating the arguments for and against the course of proceeding, which you recommend, or any other method, which could be suggested for the settlement of the claims of Messrs. Ferguson and Company. In any similar occasion, on which you may have cause to apply to me for Instructions, you will have the goodness to procure and to transmit to me a full Report from your official Legal advisers.

I am, &c.,

GODERICH.

VISCOUNT GODERICH TO GOVERNOR BOURKE.

(Despatch No. 153, per ship Prince George.)

1833.
23 March.

Sir, Downing Street, 23d March, 1833.

I have received your despatch No. 88 of the 17th September last, transmitting copies of a correspondence, which had passed between the Local Government and Sir Edward Parry, on the subject of certain changes in the Location of the Australian Agricultural Company, authorized by Sir George Murray's despatch of the 21st April, 1830.

Despatch
acknowledged.

The ample discussions, which appear to have taken place between Sir George Murray and the Directors of the Company previously to the issue of the Instructions contained in the above despatch, render it unnecessary that I should reconsider the circumstances, which induced Sir George Murray to acquiesce in the change desired by the Company; and, as I consider the pledge, which he then gave to the Directors upon this subject, as one from which His Majesty's Government could not now depart without most serious injury to the interests of the Company, I am very anxious that the terms of it should be carried into full and immediate effect, and I feel the less hesitation in making up my mind upon this point from entertaining the opinion that, although you had not, for reasons stated in your despatch, thought proper to permit Sir Edward Parry to enter upon possession of the two locations of land which he had selected, yet that, in permitting him to occupy them on behalf of the Company, nothing would be done inconsistent with the Instructions addressed to General Darling* by Sir George Murray, containing the permission before mentioned. You will, therefore, with as little delay as possible after the receipt of this despatch, place Sir Edward Parry in possession of the two locations in question, taking care, however, that the Company do not include within the space fixed by their Boundaries a larger extent of Land than was intended by the before mentioned despatch of Sir George Murray to be granted to them in another quarter in lieu of an equal quantity of that forming the original location of the Company at Port Stephen's; also that such arrangements be first entered into between Sir Edward Parry in behalf of the Company and the local Government, in respect to the formation of such lines of communication through the Company's Grant, as shall prevent the occupation of so large a Tract of Land by the Company from becoming an impediment to the further Settlement of the Country beyond it, the Public Roads necessary for that object being of course made at the expence of the Government. Every precaution must also be adopted, in concurrence with the Company's Agent, for securing to the Settlers on the lands adjoining the

Negotiations
with
A.A. company.Land to be
granted to
A.A. company.

* Note 10.

1833.
23 March.

Injury to
interests of
A.A. company
by delay.

Company's Tract the use of those Streams, which may be available for the fertility and cultivation of their Land, as well as afford water-carriage for their produce. I have only to observe that the delays, which have taken place in the final settlement of the Company's Grant, have occasioned serious injury to their interests, and that it is my hope, therefore, that the explicit Instructions of my Predecessor, together with those now conveyed to you, will prevent any fresh difficulties to the final and immediate Settlement of their Land, as agreed upon between them and the late Secretary of State.

I am, &c.,
GODERICH.

GOVERNOR BOURKE TO VISCOUNT GODERICH.
(Despatch No. 35, per ship Sovereign.)

My Lord, Government House, 23 March, 1833.

Transmission
of return of
immigrants.

I have the honor to transmit a Return, by which Your Lordship will perceive the number of Free Persons who arrived in this Colony during the last year, distinguishing those who came out wholly at their own charge from those, who received advances or Bounties towards defraying the expense of their passage. I have caused to be added to the Return the numbers arrived out in the three preceding years, and Your Lordship may observe that, notwithstanding the promulgation of the regulations for the sale of Land in these Colonies in the year 1831, nearly as many Persons came out in 1832 wholly at their own Cost as in the three preceding years put together.

Charge for
bounties on
females.

The charge for Bounties on 321 Women is taken at £2,497 7s. 6d., being the sum actually paid by this Government at the rate of about £8 each; but it would seem from Mr. Hay's letter of the 24 May last that it is proposed to charge the Colony with the whole expense of the passage of Women arrived from Ireland in the "Red Rover," which would add £1,522 10s. to the Sum above stated.

Increase of
population in
1832.

If, to the number of Free Persons (2,006) arrived in 1832, there be added 2,738 Male Convicts and 381 Female Convicts come out in the same year, the addition to the Population of the Colony in the course of the last year will be found to amount to 5,125 Souls.

I have, &c.,
RICHD. BOURKE.

[Enclosure.]

Return of
immigrants.

[This return contained the details relating to the arrival as immigrants of 306 men, 113 women and 145 children in 1829; 166 men, 70 women and 73 children in 1830; 185 men, 98 women and 174 children in 1831; and 819 men, 706 women and 481 children in 1832.]

VISCOUNT GODERICH TO GOVERNOR BOURKE.

(Despatch marked "Private," per ship Prince George.)

1833.
25 March.

Sir, Downing Street, 25 March, 1833.

I have received your Confidential despatch of the 18th Sept. last, in answer to one which I had addressed to you on the subject of the fitness of the Revd. Mr. McEncroe to be placed at the Head of the Romish Clergy at New South Wales. The only part of your communication requiring an answer is that which relates to the payment of the Revd. Mr. Therry's passage to this Country, as an inducement for him to quit the Colony, according to the terms offered to him by Earl Bathurst. Had no measures been adopted for counteracting the line of conduct adopted by Mr. Therry since his removal from the Public service, I might have been disposed to concur with you in opinion that it would have been advisable to purchase his absence by the sacrifice of the sum specified. But, as, by my despatch No. 124 of 20th Sept. last, you were informed that the Revd. Mr. Ullathorne had been appointed Vicar General of the Roman Catholic Church in New South Wales, and as his Ecclesiastical authority over Mr. Therry will prevent the recurrence of the inconvenience occasioned to the Colonial Government by the misconduct of the latter, I do not consider it necessary to subject the Public to any expense to induce Mr. Therry to take his departure, a course which he will probably adopt of his own accord, when he shall ascertain that a Spiritual Superior is on his way to the Colony.

Despatch
acknowledged.Proposed
payment of
passage money
for Revd.
J. J. Therry.

I am, &c.,

GODERICH.

VISCOUNT GODERICH TO GOVERNOR BOURKE.

(Despatch No. 154, per ship Prince George.)

Sir, Downing Street, 26th March, 1833.

26 March.

I have received your Despatch No. 81 of the 23d August last, enclosing the copy of a Memorial which had been presented to you by the Subscribers to the Roman Catholic Chapel now building in Sydney, praying that the Revd. J. J. Therry may be re-instated in the Chaplaincy from which he was removed by Earl Bathurst.

Despatch
acknowledged.

I am sorry that the correspondence in this Office, respecting Mr. Therry, is of such a character as perfectly to satisfy me that he is not a fit person to receive the bounty of His Majesty's Government, and that the conduct of Mr. Therry at the time left the Secretary of State no other alternative than to withdraw the Stipend which he enjoyed.

Refusal to
reinstat Revd.
J. J. Therry
as chaplain.

1833.
26 March.

Expected
influence
of Revd.
W. Ullathorne.

Under these circumstances, I can hold out no prospect of Mr. Therry's being again allowed to receive a Stipend from the Government, and I trust, if he should think fit to continue his Residence in the Colony, that the superior authority possessed by the Revd. Mr. Ullathorne, in his capacity of "Vicar General," will effectually restrain him from hereafter indulging in that line of conduct, which had called forth the animadversion of His Majesty's Government.

Chaplains
appointed for
R.C. religion.

The appointment of Mr. Ullathorne, as well as of Mr. McEnroe, will have completed the number of Roman Catholic Chaplains recommended by the Legislative Council to be maintained by the Government, and I hope that the exertions of these Gentlemen and of Mr. Dowling will prove adequate to supply the Religious wants of the Roman Catholic Community in New South Wales.

I am, &c.,

GODERICH.

VISCOUNT GODERICH TO GOVERNOR BOURKE.
(Despatch No. 155, per ship Prince George.)

27 March.

Despatches
acknowledged.

Sir, Downing Street, 27th March, 1833.

I have received and laid before The King your Despatches,* reporting the appointment of Mr. Archibald Bell to the Legislative Council in the room of Colonel Lindsay, and recommending Sir John Jamison for the Seat vacated by Mr. John Macarthur.

Appointment
to legislative
council of
A. Bell;

I have the honor to signify to you that His Majesty has been pleased to confirm Mr. Bell's appointment; but that it is impossible to introduce Sir John Jamison into the Council at present, as His Majesty deems it advisable that the Officer next to yourself in Command of the Troops in the Colony should always be a Member of the Legislative Council. You will, therefore, appoint Colonel Lindsay's Successor to the vacancy occasioned by Mr. John Macarthur's malady.

and of senior
military officer.

Sir J. Jamison
to succeed
unofficial
member.

Whenever a vacancy occurs among the unofficial members of the Council, there will be no objection to your appointing Sir John Jamison, should you then be as favorably inclined towards him as you now are.

I am, &c.,

GODERICH.

VISCOUNT GODERICH TO GOVERNOR BOURKE.
(Despatch No. 156, per ship Prince George.)

28 March.

Despatch
acknowledged.

Sir, Downing Street, 28th March, 1833.

I have the honor to acknowledge the receipt of your despatch No. 101 of the 22d September last, with a statement prepared by the Auditor of the Revenue and Expenditure of New South Wales for the year 1831.

* *Marginal note.*—No. 102, 22d Sept., 1832; Separate, 24th Sept., 1832.

I am happy to find that the Expenditure of 1831 was less than that of 1830 by about £3,516; whilst the Revenue had increased to the extent of £16,303; and I feel confident that the Accounts for 1832 and 1833, when completed, will shew a still greater diminution of Expenditure. I must, however, caution you not to allow this favorable state of the Finances to divert your attention from this important subject, until every practicable retrenchment, consistent with the efficiency of the Public Service, shall have been effected in all the Departments in the Colony. His Majesty's Government rely with confidence on the Surplus Revenue of New South Wales for the means of diminishing the heavy charges of a mixed nature, at present borne by this Country, connected with the Convict Establishments, such as the Police, etc.

1833.
28 March
Reduction in
expenditure
and increase
of revenue.

Retrenchments
to be continued.

It would have been satisfactory to me, if your Despatch had mentioned what steps had been taken, in consequence of the Auditor's suggestions, for the better regulation of the Territorial Revenue and for simplifying and rendering more correct the Accounts of persons indebted to the Crown. I have to desire that you will give your best attention to this subject, if you should not have already done so, before this Despatch reaches the Colony. The gradual recovery of the various debts, outstanding against many of the Colonists, also deserves your serious consideration, and I shall be glad to receive from you a report upon this and the preceding subjects. Care, however, must be taken not to press unduly upon the resources of these persons, who are indebted to the Crown for the Quit-rent upon their Lands, by calling in at the present moment the sums which they may owe on other accounts, the collection of the Quit-rents of course being first attended to.

Territorial
revenue to be
regulated and
debts recovered.

Quit rents to be
first collected.

In the statement (No. 7) of the Debts to the Crown, the following appear to me capable of being at once called in; indeed I am at a loss to understand why they should have been allowed to be in arrear at all.

Debts to be
collected
immediately.

Rents of Tolls, Ferries and Market Dues	..	£3,381
Post Office Collections	.. .. .	270
Auction Duty	.. .. .	175
Fees of Public Offices	.. .. .	1,127
Fees and Fines, Judicial	.. .. .	499
Surcharges against Public Accountants	..	966

£6,418

I perceive a sum of £112 16s. 6d. charged for the pay of the Governor's Body Guard, and, on referring to the Blue Book for

1833.
28 March.

Governor's
body-guard to
be disbanded.

Approval of
method of
statements.

1831, I find a further charge of £277 16s. 3½d. for their Clothing, Appointments and Forage, making a total expence of nearly £400 per annum. I am not aware of any reason why the Governor of New South Wales should be allowed a Guard of this nature, not usually granted in the case of other Governors; and I have, therefore, to direct that, unless their services are indispensibly required, you will at once disband them, and replace them by Troops of the Garrison.

I cannot conclude this Despatch without expressing my sense of the very creditable manner in which the several statements under consideration have been drawn up by the Colonial Auditor.

I am, &c.,

GODERICH.

VISCOUNT GODERICH TO GOVERNOR BOURKE.
(Despatch No. 157, per ship Prince George.)

Sir,

Downing Street, 28 March, 1833.

Immigrants
to exercise
preference for
colonies.

I have the honour to transmit to you extracts from a correspondence, which has taken place between the Lieutenant Governor of Van Diemen's Land and myself on the propriety of allowing Emigrants on arriving either at New South Wales or Van D. Land to change their destination to the other Colony on producing satisfactory reasons to the local Government for such alteration; and I have to acquaint you that any arrangements, which you can effect on that subject with the Government of Van Diemen's Land, which may be compatible with the interests of the Public Service, will meet with my cordial approbation.

I have, &c.,

GODERICH.

[Enclosure No. 1.]

EXTRACT of a Despatch from Lieut. Govr. Arthur to Viscount Goderich, dated Van Diemen's Land, 16th July, 1832.

Proposal
to give
immigrants
right of
selection of
colony.

“ WITH regard to the injunction of not suffering the Emigrant to alter his destination from one Colony to the other, Your Lordship's instructions will be carefully observed; but I hope, if it be not found practically inconvenient, that Your Lordship will be induced to relax a little in this particular, because, in two or three cases which have already come under my observation, the privilege has been found highly satisfactory, as well as useful to the parties; and one of the means of making the whole arrangements of emigration work well must be certainly that of offering the Emigrants every reasonable facility. On their embarkation in Britain, many of them have a most imperfect notion of the distance, which separates the two Colonies; and they discover on arrival that there is some link or other in the chain which connects Society, which would render one Colony more desirable or more congenial to them

than the other, and, if disappointed in the object of their wishes, discouragement will, I fear, too often follow."

"I apprehend, by regular and frequent Reports from the Government of the two Colonies to the Secretary of State, the objections, which Your Lordship contemplates, will not be felt for at least 2 or 3 years."

1833.
28 March.

[Enclosure No. 2.]

EXTRACT of a Despatch from Viscount Goderich to Lieut. Govr. Arthur, dated Downing Street, 28th March, 1833.

"WITH reference to that part of your Despatch, in which you suggest that an Emigrant, on arriving either at Van D. Land or at New S. Wales, should be allowed to alter his destination from one Colony to the other, I have to acquaint you that, in originally imposing a restriction on this particular, I had no other object in view than to prevent any attempt on the part of Mechanics to evade the payment of their Loans when in another Colony than that to which they may have first proceeded, and in which they may have contracted to repay the advance, and to obviate confusion in the account kept in this Department of the amount of the sums so expended."

Immigrants
to exercise
preference for
colonies.

"I am willing, however, to attend to your suggestion on this subject; and, if you can make any arrangement with the Government of New S. Wales by which the inconvenience above referred to may be effectually guarded against, I shall be prepared to extend to the Emigrant the privilege, which you have proposed, in every case in which he shall prove to your satisfaction that his wish to change his destination does not proceed from any frivolous motive, and that it will really tend to the advantage of the Party to give him that indulgence."

VISCOUNT GODERICH TO GOVERNOR BOURKE.
(Despatch No. 158, per ship Prince George.)

Sir, Downing Street, 29th March, 1833.

29 March.

I have the honour to acquaint you that a vessel will be despatched to New South Wales in the course of the ensuing month containing Female Emigrants. The Persons to be sent out in this vessel have been selected by a charitable Committee, which has been formed in London. My former Despatch* will have caused the collection in the Colony of every information likely to be useful to the Emigrants on their arrival, and you will probably be possessed of a list of the names and addresses of Settlers in want of Female Servants, as well as of the Wages which they are willing to offer for their services. I need scarcely observe that these Females must be treated entirely as free Agents, having their own choice of Service, and being in no respect required to enter into any other Bonds or engagements than they might have done, had they gone out from this Country entirely at their own expense. You will provide the same accommodation for them, as was afforded in the case of the Females

Vessel to sail
with female
immigrants.

Instructions *re*
treatment of
immigrants.

* Note 11.

1833.
29 March.
Instructions *re*
treatment of
immigrants.

who proceeded in the "Red Rover"; and, until they can be disposed of in private Families, you will cause them to be employed in some suitable occupation, the choice as well as conduct of which will be best confided to the Superintendent, by whom they will be accompanied to the Colony, and who, being about to proceed thither, has undertaken the charge of the Females during the Voyage without any remuneration from the Government.

For the adoption of any measures which may seem likely to be useful, I shall rely upon the disposition which I am sure you will feel to secure to these Emigrants every chance of success in the Country which they have chosen for their future home.

I have, &c.,
GODERICH.

UNDER SECRETARY HAY TO GOVERNOR BURKE.
(Despatch per ship Captain Cook.)

Sir, Downy Street, 29th March, 1833.

Recommendation of
I. Slater for
indulgence.

I am directed by Lord Goderich to transmit to you a copy of a letter from the Revd. John Jowett, in behalf of a Convict, named Isaac Slater, late a Private in the 57th Regiment. On referring to the Horse Guards, it appears that there is nothing on the face of the proceedings of the General Court Martial held on the Prisoner, except the crime of Desertion, which, in Lord Hill's opinion, should preclude Isaac Slater from reaping the benefit of his good conduct since his arrival in the Colony; and Lord Goderich has, therefore, promised Mr. Jowett to bring this man's case under your notice, in order that he may have extended to him whatever indulgence he may be considered by the Local Authorities to deserve.

I am, &c.,
R. W. HAY.

[Enclosure.]

REVD. JOHN JOWETT TO SECRETARY OF STATE.

My Lord, Hartfield Rectory, East, 14 March, 1833.

I am requested to lay before your Lordship the following case, and to ascertain whether anything can be done in it.

Request for
indulgence for
I. Slater.

A man of the name of Isaac Slater, while serving in the Peninsular War, about the year 1812, having several times deserted from his Regiment (the 57th Foot), was sentenced to be transported for Life; he was accordingly sent to New South Wales in the year 1814, now 19 years ago; but has lately written to his friends, requesting them to make some effort for a mitigation of his sentence, being very desirous of seeing them again; The man's family connexions are living in this Parish and in good Credit.

May I request to be informed as to the proper quarter in which to make the necessary application? and whether any opinion can be framed as to its result?

I have, &c.,

JOHN JOWETT,
Rector of Hartfield.

RIGHT HON. E. G. STANLEY TO GOVERNOR BOURKE.

(A circular despatch per ship Captain Cook.)

1833.
3 April.

Sir, Downing Street, 3d April, 1833.

His Majesty having been pleased to honor me with the Appointment of
Seals of the Colonial Department in the room of Viscount E. G. Stanley
Goderich, I take the earliest opportunity of acquainting you as secretary
therewith. of state.

It will give me great satisfaction to be able to fulfill His Majesty's Gracious Intentions in this Appointment, and, as it is His Majesty's Pleasure that your despatches should for the future be addressed to me, I shall not fail to lay them immediately before The King, and to transmit to you such Orders as His Majesty shall think fit to give thereupon.

I am, &c.,

E. G. STANLEY.

GOVERNOR BOURKE TO VISCOUNT GODERICH.

(Despatch No. 36, per ship Edward Lombe; acknowledged by right hon. E. G. Stanley. 21st November, 1833.)

My Lord, Government House, 8 April, 1833.

8 April.

In conformity to the Instructions contained in your Lordship's Circular Despatch of the 28th February, 1832, I have the honor to enclose an Abstract* of the Revenue of the Colony of New South Wales and its Appropriation for the year 1832, as required for the use of the Lords Commissioners of His Majesty's Treasury.

I have, &c.,

RICHD. BOURKE.

Transmission of financial statement.

UNDER SECRETARY HAY TO GOVERNOR BOURKE.

(Despatch per ship Bussorah Merchant.)

Sir, Downing Street, 12th April, 1833.

12 April.

With reference to Lord Goderich's despatch of the 29th Ultimo, apprising you that a Vessel was about to be despatched with Female Emigrants, I am directed by Mr. Secretary Stanley to acquaint you that they have been embarked in the "Bussorah Merchant." I enclose you a copy of a letter from Mr. Forster, requesting, for the reason stated, that you might be instructed to pay the sum of six pounds for each Female landed in the Colony from the above Vessel; by the enclosed copy of the answer sent to Mr. Forster, you will perceive that his request has been complied with to the extent of 250 Females. You will, accordingly, pay to the Agent of the Vessel the sums in question; and you will, also, pay into the Military Chest the sum which has been advanced by the Treasury on account of these Females.

Female immigrants per ship Bussorah Merchant.

Payment for immigrants landed.

I am, &c.,

R. W. HAY.

1833.
12 April.

[Enclosure No. 1.]

MR. E. FORSTER TO UNDER SECRETARY HAY.

Sir, 17 Warrick Sq., 9 April, 1833.

Request for
payment for
immigrants.

The Committee of Emigration, in requesting you will have the goodness to transmit a despatch by the Bussora Merchant to the authorities at Sydney directing payment to be made of six pounds for each female landed in the Colony, beg to state that it is not possible to make a return of the exact number of females, till they shall be actually embarked.

The Committee, therefore, solicit that you will be pleased to order a sum to the above amount to be disbursed on account of each female disembarked at Sydney from the Bussorah Merchant for a number not exceeding 250.

On the departure of the Vessel from Gravesend, a correct report of the number of Emigrants on board will be forthwith forwarded to the Colonial Office.

I have, &c.,

EDWARD FORSTER, Chairman.

[Enclosure No. 2.]

UNDER SECRETARY HAY TO MR. E. FORSTER.

Sir, Downing Street, 12th April, 1833.

Payment
authorised.

In answer to your letter of the 9 Instant, I have to acquaint you that, in consequence of the representations therein stated, Mr. Secretary Stanley will have no objection to direct the Government of New South Wales to pay the sum of £6 for every female arriving in that Colony by the Ship "Bussorah Merchant," provided the number do not exceed 250, to any Person you may name in the Colony for that purpose.

I am, &c.,

R. W. HAY.

UNDER SECRETARY HAY TO GOVERNOR BOURKE.

(Despatch per ship Bussorah Merchant; acknowledged by Governor Bourke, 27th August, 1833.)

Dear Sir, Downing Street, 12 April, 1833.

Recommend-
ation in favour
of J. Hoskins.

This letter will be delivered to you by Mr. Hoskins, who has undertaken the charge of the Females from the Refuge for the Destitute, now going out in the "Bussorah Merchant." For your satisfaction, I enclose a copy of a letter from the Secretary to that Institution, as it will shew you the estimation in which Mr. Hoskins is held there; and I venture to request for him any assistance in furtherance of his plans, which it may be in your power to afford him, and which his conduct may deserve.

I remain, &c.,

R. W. HAY.

[Enclosure.]

REVD. W. F. VANCE TO UNDER SECRETARY HAY.

Sir, Refuge for the destitute, 10 April, 1833.

I have the honor to state that, at a meeting of the Emigration Committee this day, it was resolved that the accompanying "copy of a letter from Mr. Hoskins (to the Committee) and its enclosure

be forwarded to Mr. Hay, with a request that he will move His Majesty's Secretary of State to communicate with the Governor in favour of Mr. Hoskins, of whom this committee entertains a very high opinion."

1833.
12 April.

I am, &c.,

W. F. VANCE, Secy. and Chaplain.

[Sub-enclosure No. 1.]

MR. J. HOSKINS TO EMIGRATION COMMITTEE.

Gentlemen,

9 April, 1833.

Request by
J. Hoskins for
recommenda-
tion.

I take the liberty of enclosing to you a copy of the certificate I have received from the Committee of the Refuge for the Destitute, and humbly to request you will be good enough to forward it to Mr. Hay, in order that it may be communicated to the Governor of the Colony in New South Wales.

I beg leave to say that the Emigration of Females to Australia and their final Settlement there is an object in which I take great interest, and, having been for so many years employed in the refuge, I hope it has given me information that may be useful.

I cannot yet decide whether I should wish to remain in the Colony and be employed in Superintending the Settlement of women there, or whether I should return home and come out with another Ship; but I would humbly submit that the Governor should be requested to give such facilities to my future plans as they may appear to him entitled to.

I am, &c.,

J. HOSKINS.

Extracted from the minutes of the Emigration Committee by Mr. William Vance, Secretary and Chaplain.

[Sub-enclosure No. 2.]

FROM THE MINUTE BOOK, MARCH 30TH, 1833.

Testimonial
re services of
J. Hoskins.

WE, the undersigned Members of the Committee of an Institution called the Refuge for the Destitute Established in the Vicinity of London, do hereby certify that Mr. Joseph Hoskins has been the Superintendent of the Female department of this Establishment for a period of 25 years, during which time he has had on an average from 50 to 70 Women yearly under his care; that he has exerted himself greatly to promote the Moral and Religious Reform of these Women, and considerable success has attended his efforts.

The Committee have always valued him as an honest, laborious and Zealous Servant, and he now leaves their immediate Service in order to be instrumental in the Emigration of females to New South Wales and to their reputable Establishment in the Colony, an object which he has much at heart.

Under these Circumstances the Committee Subscribe this Testimonial, and wish Mr. Hoskins much Success in the Colony, whither he is proceeding.

"Here follows the Names of the Committee."

To CHARLES BRANBRIDGE, Esq.

Refuge for the Destitute, 10 April, 1833.

I certify that the above is correctly extracted from the Minutes of the Emigration Committee.

WILM. F. VANCE, Secy. and Chaplain.

1833.
13 April.

RIGHT HON. E. G. STANLEY TO GOVERNOR BOURKE.
(Despatch No. 1, per ship Captain Cook; acknowledged by
Governor Bourke, 1st November, 1833.)

Sir, Downing Street, 13 April, 1833.

Despatches
acknowledged.

I have the honor to acknowledge the receipt of your despatches of the dates, and numbers mentioned in the Margin.*

Refusal of
compensation
for W. Dun.

In answer to No. 78, I am sorry to state, that I cannot admit the claim advanced by Mr. William Dun to compensation for the losses sustained by him through the malicious Acts of his assigned Servants, and which they had been led to commit by the regularity which he had exacted, and the strict discipline which he had kept up amongst them.

The risk of loss from a Convict's misconduct is an evil which is shared by every Settler in the Colony, and for which he is compensated by the value of the man's labor; he cannot, therefore, reasonably seek from the Government indemnification for a contingency for which he ought always to be prepared. The reformation, too, of the Convict is an object of equal importance to the Master, as well as to the Government.

Preference
proposed for
W. Dun.

The only way, in which you could mark your sense of exertions for this object, so creditable as those which Mr. Dun appears to have made, would be by giving him the preference in regard to Convicts over other applicants, who may have paid less attention to the habits and morals of their Servants.

Refusal of
application
by Revd.
J. McEncroe.

The application of the Revd. J. McEncroe, contained in No. 85, is wholly inadmissible. He appears to have proceeded to the Colony before any expectation was held out to him of Employment from the Government, and can, therefore, only be entitled to his stipend from the time when he entered upon the duties of his Chaplaincy.

Custody of
money lodged
in savings
bank.

I perfectly concur in the opinion expressed in your despatch No. 87, that the Colonial Treasurer is the proper Officer to be entrusted with the custody of money lodged in the Savings Bank, when not lent out at Interest, in consequence of the responsibility of the Government for the sums deposited in that Institution. Mr. Riddell cannot, therefore, be relieved from this duty; he is however fairly entitled to adequate clerical assistance in its performance, and you will accordingly afford it to him, should it be necessary.

* *Marginal note.*—No. 78, 20th Aug., 1832; No. 85, 5th Septr., 1832; No. 87, 16th Septr., 1832; No. 91, 20th Septr., 1832; No. 92, 22d Septr., 1832; No. 97, 22d Septr., 1832; No. 99, 22d Septr., 1832; No. 100, 22d Septr., 1832; No. 107, 27th Oct., 1832.

Under all the circumstances stated in your despatch No. 91, I have to authorise your increasing Mr. Charles Nye's Salary to £190, and, after the expiration of a year from the date of your receiving this Despatch, fixing it at £200 per annum.

I regret to observe, in reply to your Despatch No. 92, that I cannot admit the claim advanced by the Revd. Charles Dickenson to a larger Allowance for House Rent than is received by the other Chaplains, not provided with Parsonage Houses. The sum of sixty pounds is considered sufficient for the Clergy generally, and cannot be varied in individual cases, in proportion to the number of their respective families. The authority, which has been conveyed to your Predecessor, for extending the number of Parsonage Houses will remove the inconvenience which is complained of in this instance, as well as in others where adequate accommodation for a Clergyman's family cannot always be obtained; and I shall be happy to hear that the Legislative Council have placed at your disposal a sum sufficient for this service; you will take care, however, not to allow too many of them to be commenced at once, nor to consent to others being built, until those in hand shall have been first finished. With respect to Mr. Dickenson's claim to extra pay for the duties he has performed at the Female Orphan School, I wish you distinctly to understand that no Chaplain can be allowed to receive any additional remuneration for the performance of extra duties, unless he discharges the entire duties of his Cure at the same time; and, as it appears that Mr. Dickenson performs but one Service on Sundays, and that the distance of the Female Orphan School from his Residence at Paramatta does not exceed 2 miles, I do not consider that he has made out any case for the issuing to him of a separate remuneration, the more especially as he will be very shortly relieved from this particular duty altogether by the arrival in the Colony of the Revd. H. Stiles, who has been appointed master to the School.

In consideration of the expences which are reported in your Despatch No. 97, as occasioned to the Surveyor General by the transfer to his Department of the charge of the Roads and Bridges, I think it but reasonable to allow him Forage for two horses, so long as they may be required and actually kept by him for that purpose. You will, therefore, cause to be issued to him the sum of Five shillings per diem as you have suggested. You will understand that this allowance is to continue no longer than Major Mitchell discharges the duties of Superintendant of Roads and Bridges.

1833.
13 April.

Increase of
salary for
C. Nye.

Refusal of
increased
allowance for
rent to Revd.
C. Dickenson;

and of extra
pay for duties
at female
orphan school.

Forage
allowance for
T. L. Mitchell.

1833.
13 April.

Allowance to
solicitor-
general for
clerical
assistance.

Rent to be paid
for official
residence by
A. Macleay ;

and by
F. Forbes.

I approve your allowing to the Solicitor General the sum of £120 per annum as recommended in your Despatch No. 99, so long as the cause shall exist for furnishing that officer with Clerical assistance at the Public Expence.

With respect to the questions submitted in your Despatch No. 100, regarding the Houses of the Colonial Secretary and the Chief Justice, I see no objection to the former being allowed to retain his Official Residence, until the house, which he is now building, shall be completed; but the same reason does not exist for his living in the mean time rent free; and you will, therefore, call upon him to pay to the government a fair and equitable Rent from the time when, according to Lord Goderich's Instructions, he ought to have relinquished it. The arguments, which are urged in favor of continuing to the Chief Justice the advantage of an Official Residence, may be brought forward with equal force by almost all the other Servants of the Crown, who have been affected by the late Regulations; and, as I do not feel at liberty to revoke the directions of my Predecessor upon this point, you will call upon the Chief Judge to pay a reasonable rent from the 1st July last, when the House occupied by him ought to have been given up.

I am, &c.,

E. G. STANLEY.

UNDER SECRETARY HAY TO GOVERNOR BOURKE.

(Despatch per ship Captain Cook.)

Sir,

Downing Street, 13 April, 1833.

Refusal to
consider
complaints by
J. Gillyan and
C. Young.

I have laid before Mr. Secretary Stanley your letters of the 1st and 2d August last, the one in answer to Mr. Gillyan's complaint against Captain Crotty of the 39th Regiment, the other explaining the cause of Mr. Charles Young's dismissal from the Post Office at Sydney; and I am to request that you will inform these persons that the Secretary of State is satisfied that there is no necessity for his interference.

I am, &c.,

R. W. HAY.

RIGHT HON. E. G. STANLEY TO GOVERNOR BOURKE.

(Despatch No. 2, per ship Captain Cook.)

Sir,

Downing Street, 14th April, 1833.

14 April.
Despatch
acknowledged.

I have received your Despatch No. 80 of the 22d August last, submitting the offer of Mr. Hely to resign his Office of Principal Superintendent of Convicts upon condition of his

being appointed a Stipendiary Magistrate at Brisbane Water, where his property is situated, with a Salary of £250 a year.

I perfectly agree in opinion with you that, where Gentlemen can be found qualified to discharge the functions of Justices of the Peace, they should be required to do so gratuitously in the Districts where they reside; and on this ground alone, the application of Mr. Hely, so far as regards the Salary, could not be granted.

In consideration of the testimony, which you have borne to the manner in which Mr. Hely has conducted the duties of his Office, I shall not object to your augmenting his Salary by £100 per Annum, if you shall deem it necessary, by this means, to induce him to retain an Office for which you think him so peculiarly qualified.

I am, &c.,

E. G. STANLEY.

1833.
14 April.

Refusal to
appoint
F. A. Hely as
stipendiary
magistrate.

Authority for
increased
salary for
F. A. Hely.

RIGHT HON. E. G. STANLEY TO GOVERNOR BOURKE.

(Despatch No. 3. per ship Captain Cook.)

Sir,

Downing Street, 15th April, 1833.

15 April.

I have received, and had under my consideration, your Despatches of the Numbers and dates mentioned in the margin,* together with those, which you addressed to my Under Secretary.

Despatches
acknowledged.

The explanation contained in your letter to Mr. Hay of the 29th July, respecting the complaint of Mr. Shairst that his father-in-law had been unfairly deprived of certain Land, has satisfied me that no injustice has been committed in the case; and you will, therefore, acquaint Mr. Shairst that I see no necessity for my interference.

Refusal of
claims of
J. Milson;

The same reasons, which occurred to Lord Goderich in the case of Mrs. Craig, will equally prevent me from confirming the Grant of Land given to Miss Phillips as a Marriage Portion, which forms the subject of your Despatch No. 67.

and of land
grant to
— Phillips.

I think the case of Mr. Robert Scott, stated in No. 68, is deserving of favorable consideration; it would certainly be very unfair to make him suffer for any irregularity in the Secretary's office in considering his application for Land. You will, therefore, satisfy yourself that there was no good reason for refusing his application, previous to the promulgation of the new Regulations, and, in that case, make him a Grant of land to the extent and upon the terms he would have been entitled to receive it, had his application been attended to in proper time.

Land to be
granted to
R. Scott.

* *Marginal note.*—No. 67, 1st August, 1832; No. 68, 2nd August, 1832; No. 73, 7th August, 1832; No. 76, 18th August, 1832; No. 90, 19th Sept., 1832; No. 96, 22d Sept., 1832. To Mr. Hay, 29th July, 1832; 3rd August, 1832; 6th August, 1832.

1833.
15 April.
Town allotment
for J. Kinchela.

The refusal* to allow Mr. Kinchela to receive a Town Allotment, conveyed in Mr. Hay's letter to you of the 22d December, 1831, appears to have originated in an impression that Mr. Kinchela's application had then come home for the first time, and therefore could not, consistently with the new Regulations, be complied with. The previous authority, that had been given by Sir George Murray for granting him an Allotment, of course remains in full force.

Refusal of claim
of A. Kemmis.

I do not consider† that Mr. Arthur Kemmis has any reasonable ground of complaint, in regard to the refusal to give him the particular Land he wanted for the purpose of forming a Whaling Establishment. The position of such a Building in the Neighbourhood of private Residences could not fail to produce much annoyance to the Inhabitants, and might, from that cause, have depreciated the value of the adjoining land for building purposes. From the tenor of the concluding Paragraph of your letter to Mr. Hay of the 6th August, you would not appear to understand that the Regulations for selling the Crown Lands generally apply, with the same force, to these Building Allotments, and I beg, therefore, to remind you that those Regulations must be observed *in every case* in which the Crown Lands are alienated.

Regulations
re sale of
building
allotments.

Refusal of
application
by A. Lang.

The application‡ of Mr. Andrew Lang to be allowed to benefit by the Order for 500 Acres, given by General Macquarrie to his late Brother, is totally inadmissible.

Permission for
H. L. Miller
to hold land.

I see no objection§ to extending to Mr. Henry Ludwig Miller the benefit of the same arrangement, as was suggested by Lord Goderich in his despatch No. 53 of the 30th December, 1831, for conferring upon Madame Reus the power to hold landed property in New South Wales.

Refusal of
application by
R. Lethbridge
re land.

In consequence of the assertion contained in Mr. Robert Lethbridge's letter (which accompanies your Despatch No. 90) that Earl Bathurst promised him the Land, which he now holds, so far back as 1822, I have caused the correspondence of this office to be examined for the purpose of ascertaining the correctness of Mr. Lethbridge's statement; but it appears that there is no record of such promise, bearing an earlier date than the despatch to Sir Thomas Brisbane of the 2d January, 1825. You will, therefore, acquaint him that I cannot reverse Lord Goderich's decision that the land in question must bear the charges imposed by the Regulations in force at the time it was *promised to him*, that is, in the year 1825.

* Marginal note.—3rd of August.

† Marginal note.—No. 73.

‡ Marginal note.—6th August.

§ Marginal note.—No. 76

I am sorry that I cannot, consistently with the Regulations, permit Mr. Plunkett to receive a Grant of Land and Building Allotment.

1833.
15 April.

Refusal of
land for
J. H. Plunkett.

In conclusion, I beg to draw your attention to the numerous instances, in which my Predecessor had occasion to refuse his assent to any departure from the new Land Regulations, and to desire that you will decline in future to forward similar applications, unless you shall feel satisfied that the peculiarity of the case would justify a relaxation of the general Rules.

Refusal to
depart from
land
regulations.

I am, &c.,

E. G. STANLEY.

RIGHT HON. E. G. STANLEY TO GOVERNOR BOURKE.

(Despatch No. 4, per ship Captain Cook.)

Sir,

Downing Street, 16th April, 1833.

16 April.

I have received and had under my consideration your despatch No. 57 of the 3d of May last, addressed to my Predecessor, with its Enclosures on the subject of the Police Establishment maintained on the possessions of the Australian Agricultural Company.

Despatch
acknowledged.

Lord Goderich, in his despatch of the 14th March, 1831, No. 25, admitted the right of the Company to receive from the Government the same extent of protection for their Establishment and Servants, as would have been afforded to an equal number of individual Settlers located together, a decision in which I concur. You will, therefore, withdraw the Troops hitherto stationed on the Company's Lands, and consider yourself authorised to appoint a Magistrate and Clerk, with three mounted Police and three Constables, at or near Port Stephens for the protection of the Company's Servants and of any other Settlers in the neighbourhood, as recommended by the Council; provided you shall be satisfied that there are no other Districts, with an equal number of Residents and with the same amount of property at stake, where the same wants in this respect are felt; as in such a case, I should consider the latter entitled to prior consideration from the Government.

Right of
A.A. company
to police
protection.

Magistrate
and police for
Port Stephens.

You will, also, understand that the Company must be called upon to provide and maintain in repair the several Buildings enumerated in Sir Edward Parry's letter of the 1st March, 1832, as well as a Residence for the Magistrate and Clerk, if

Buildings to
be provided by
A.A. company.

1833.
16 April.

they should be appointed, together with the other expences, which were calculated in computing the further charge to the Company for Police at £176 10s. per annum.

Maintenance of
magistrate, etc.

I concur in opinion, with you, that the Funds appropriated to the maintenance of Convicts ought to bear the expence of a Magistrate, etc., rather than the Colonial Treasury; and you will accordingly give directions for its being paid from the former source.

I am, &c.,
E. G. STANLEY.

RIGHT HON. E. G. STANLEY TO GOVERNOR BOURKE.
(Despatch No. 5, per ship Captain Cook.)

17 April.

Sir, Downing Street, 17th April, 1833.

Despatch
acknowledged.

I beg to acknowledge the receipt of your Dispatch No. 105 of the 25th September last, enclosing a Memorial from the Trustees of the Wesleyan Chapel at Sydney, praying to be relieved from the payment of a Sum due by the Trustees to the Government on account of a Loan advanced to them by Sir Thomas Brisbane in the year 1824.

Loan without
interest to be
paid by trustees
of Wesleyan
chapel.

I should be extremely unwilling, in the case of a debt contracted under the circumstances of that which forms the subject of your Dispatch, to authorize any step to be taken which might have the appearance of harshness towards the Parties. At the same time, I cannot avoid observing that, under the obligation incurred by the Trustees, and more particularly after the Indulgence which had from time to time been extended to them, of reimbursing to the Government the amount which they had borrowed, they have but little excuse to urge for not having set apart annually a small sum with which either to pay the Interest or principal, or a part at least of both; and I do not consider therefore that they have made out any case, which should induce His Majesty's Government to consent to an entire remission of the debt. Anxious, however, to mark the sense, which I entertain of the readiness which the Wesleyan Missionaries have shewn upon all occasions to assist and cooperate with the Clergy of the established Church, I approve of your proposal to remit the whole of the Interest, provided that the Sum originally lent to them be paid within a reasonable time from the arrival of this Dispatch in the Colony; and you will accordingly bring a proposition to that effect under the consideration of the Council.

I am, &c.,
E. G. STANLEY.

UNDER SECRETARY HAY TO GOVERNOR BOURKE.

(Despatch per ship Lord Lynedock.)

1833.
17 April.

Sir, Downing Street, 17th April, 1833.

The Despatches, ordering Advances or Bounties on account of Passengers by the Ship "Lady East," having directed the amount to be paid to Mr. Edward Deas Thomson only, I am now desired by Mr. Secretary Stanley to direct, at the request of the parties interested in the Vessel, that, in the event of the absence of Mr. E. D. Thomson, the payment may be made to the Managers or Directors of the New South Wales Bank for behoof of Messrs. Chalmer and Guthrie of London.

Instructions
re payment of
bounties on
immigrants per
ship *Lady East*.

I have, &c.,

R. W. HAY.

P.S.—Some of the Passengers have been subsequently transferred to the "Edward Coulson."

RIGHT HON. E. G. STANLEY TO GOVERNOR BOURKE.

(Despatch No. 6, per ship Captain Cook.)

Sir, Downing Street, 18 April, 1833. 18 April.

I have the honor to acknowledge the receipt of your Despatch No. 75 of the 17th August last, enclosing a letter, which you had received from Archdeacon Broughton, respecting the Mission lately sent out from this Country to the Aborigines of New Holland.

Despatch
acknowledged.

In answer, I think it unnecessary to do more than to refer you to Lord Goderich's despatch of the 13th June last, No. 102, in which his Lordship has so fully explained the motives, which actuated His Majesty's Government in placing this Mission under the superintendance of the Church Missionary Society.

Reference
to former
despatch.

I am, &c.,

E. G. STANLEY.

UNDER SECRETARY HAY TO GOVERNOR BOURKE.

(Despatch per ship Lord Lynedock.)

Sir, Downing Street, 18 April, 1833.

With the Emigrants who proceed to New South Wales in the "Lady East," are several persons who had previously embarked from Liverpool in the "Princess Elizabeth," which Ship was compelled to put back in consequence of the serious damage

Transfer of
immigrants
from ship
*Princess
Elizabeth*.

1833.
18 April.

Condemnation
of ship *Princess
Elizabeth*.

which she sustained in a succession of Gales of Wind shortly after her departure, and has been subsequently condemned as unseaworthy.

I am induced to mention this circumstance to prevent mistakes in reference to the orders for advances in the case of those persons, who will arrive in the Colony under your Government by a different Ship from that in which the orders state that they had taken their Passages.

I have, &c.,

R. W. HAY.

Transfer of
immigrants
from ship
Lady East.

P.S.—Since the above was written, the “Lady East” has been compelled by foul weather to put back for repairs, and some of her Passengers have in consequence been transferred to the “Edward Coulston.” You will, however, pay the orders relating to the Passengers by this Vessel the same as if they had arrived by the “Lady East.”

UNDER SECRETARY HAY TO GOVERNOR BOURKE.

(Despatch per ship Lord Lynedock.)

Sir,

Downing Street, 18 April, 1833.

Transmission of
correspondence
re advances to
immigrants.

I am directed by Mr. Secretary Stanley to transmit to you the enclosed Copies of a correspondence between this Department and the Church Wardens of St. Mary Newington, respecting the recovery of certain advances made by them to Emigrants, who are proceeding from Liverpool to New South Wales in the “Lady East”; and I have to request that you will act in conformity with the Arrangement, to which the Secretary of State has consented in this instance, by using your best endeavours to recover from the parties, who have received assistance from their Parish, the Sums respectively advanced to them, of course taking care that the Government be in the first instance reimbursed the Loans which the Parties may have received from the Emigration fund.

I have, &c.,

R. W. HAY.

[Enclosure No. 1.]

MR. C. F. SMITH TO ———.

Sir,

Stones End, 21 March, 1833.

Request for
instructions *re*
bills given
by immigrants.

I enclose a letter received from Mr. Elliot upon the subject of pauper Emigration. My object now is to know how we are to proceed with the Bills, these poor people give us for the amount advanced, whether we are to place them in your office or? I desire also to know whether the Colonial Office can afford us any information with regard to the Agents, who have undertaken the transport

of our poor, Messrs. Walkinshaw and Parry; this is a most important question, as you will feel.

1833.
18 April.

There are many Agents about Town, whose object is merely to delude and fleece those anxious to mend their condition. I do not for an instant suppose that Messrs. Walkinshaw and Parry are such; but, before we commit our poor and our Money to their keeping, it is of the utmost importance that we should be assured of their respectability.

Inquiry re agents.

I remain, &c.,

CHARLES F. SMITH,

Church Warden, St. Mary Newington.

P.S.—The Ship's name is the "Lady East" from Liverpool.

[Enclosure No. 2.]

UNDER SECRETARY HAY TO MR. C. F. SMITH.

Sir, Downing Street, 22d March, 1833.

In reply to your letter of yesterday's date, I have to acquaint you that, at the time His Majesty's Government undertook to lend its Agency in the recovery of Loans advanced to Emigrants either by Parishes or private Individuals, they anticipated that it would have been very generally made use of throughout the Country. That impression having proved incorrect, they have determined not to interfere in any private arrangements between Emigrants and Parties lending them Money.

Policy of government re advances to immigrants.

But, in the present instance, there will be no objection to instruct the Colonial Government to endeavour to recover and transmit to this Country the sums proposed to be advanced by your Parish to the Parties emigrating in the "Lady East." I have, therefore, to request that you will send me a List of the Parties on whose account the Agency of Government is required, together with their acknowledgements of the Money lent them, in order to their transmission to the Colony.

Advances to be recovered by colonial government.

With reference to your enquiry respecting Mr. Walkinshaw's respectability, I have to acquaint you that this Department have transacted business with him for a considerable period, and nothing objectionable has ever been observed in his conduct.

I have, &c.,

R. W. HAY.

[Enclosure No. 3.]

MR. C. F. SMITH TO UNDER SECRETARY HAY.

Sir, 51 Blackman St., 10 April, 1833.

I beg to hand you the enclosed acceptances of persons, emigrating to N. S. Wales from Liverpool per Lady East, in favor of the Parish Officers of St. Mary Newington.

Acceptances of immigrants.

I am, &c.,

C. F. SMITH, Ch. War.

1833.		£	s.	d.
Mar. 28,	John Priest	53	12	0
" 29,	John Pearson	40	0	0
" ,,	James Etheringham	32	10	0
		<hr/>		
		£126	2	0

1833.
19 April.

UNDER SECRETARY HAY TO GOVERNOR BOURKE.
(Despatch per ship Captain Cook; acknowledged by
Governor Bourke, 28th September, 1833.)

Sir, Downing Street, 19th April, 1833.

Inquiry re
repayment of
advances by
colonial agent.

It appearing doubtful whether the undermentioned Officers of your Government have refunded the sums of money, advanced to them respectively on their appointment by Mr. Barnard on account of their future Salaries, I am directed by Mr. Secretary Stanley to desire that you will forthwith ascertain, whether the money has been repaid into the Colonial Treasury; and, if not, that you will call upon the Officers in question to do so without delay.

1827.—Mr. Thompson, Ass. Surveyor	.. ..	£50
„ Mr. P. Eliot do. do.	.. ..	50
„ Major Mitchell, Deputy Sur. Genl.	.. ..	125
„ Mr. Justice Dowling	.. ..	375

£600

I am, &c.,
R. W. HAY.

RIGHT HON. E. G. STANLEY TO GOVERNOR BOURKE.
(Despatch No. 7, per ship Captain Cook.)

20 April.

Sir, Downing Street, 20th April, 1833.

Despatch
acknowledged.

I have received the despatch, which you addressed to my Predecessor on the 27th August last, No. 84, recommending that the Duty on Cape Spirits, imported into New South Wales, should be lowered to the same scale as that paid on West India Rum. In the present depressed state of the West India interest, I should be very unwilling to deprive it of an advantage in New South Wales, which it enjoys in this Country, even if the sacrifice would be beneficial to New South Wales; but, as the immoderate consumption of Spirits is one of the evils, which tend to check the moral improvement of the great bulk of the Australian Colonists, I have the less hesitation in with-holding my assent to the proposition which you have made. I am, &c.,

Refusal to
grant reduction
in duty on
spirits.

E. G. STANLEY.

UNDER SECRETARY HAY TO GOVERNOR BOURKE.
(Despatch per ship Captain Cook.)

21 April.

Sir, Downing Street, 21 April, 1833.

Intended
voyage of
H.M. ship
Buffalo.

His Majesty's Store-Ship "Buffalo" is about to proceed to Sydney with Convicts, and, after landing them, is to go on to New Zealand for the purpose of collecting Spars. It has been

represented to Mr. Secretary Stanley that this would be a good opportunity to send to those Islands an experienced Botanist, who might make himself acquainted with the various Vegetable productions of New Zealand; and you will therefore consider yourself at liberty to employ Mr. Cunningham upon this Service, should it be your opinion that the Colony will derive any benefit therefrom. I beg to add that directions have been given to the Master of the Buffalo, on receiving from you a requisition to that effect, to accommodate Mr. Cunningham with a Passage in that Vessel, on his settling with the Mess for his Provisions.

I am, &c.,
R. W. HAY.

1833.
21 April.

Proposal to send
R. Cunningham
to islands.

UNDER SECRETARY HAY TO GOVERNOR BOURKE.

(Despatch per ship Captain Cook.)

Sir, Downing Street, 22 April, 1833. 22 April.

I am directed by Mr. Secretary Stanley to transmit to you the enclosed copies of a Letter and of its Enclosures from Messrs. Fairlie, Clark, Innes and Co., upon the subject of the claim referred to in Lord Goderich's Despatch of the 22d of March last; but, as Mr. Stanley considers that the opinion expressed in that Dispatch provides for all the circumstances which can be addressed in support of this Claim, he does not consider it necessary to offer any additional observations upon the subject of it.

Transmission
of letter.

I have, &c.,
R. W. HAY.

[Enclosure.]

MESSRS. FAIRLIE, CLARK, INNES AND CO. TO VISCOUNT GODERICH.

Broad Street Buildings,

My Lord, London, 15th March, 1833.

We have the honor to address Your Lordship, as His Majesty's Secretary for the Colonies, on the subject of a pecuniary claim of old-standing, which we possess in right of Our Predecessors under the Firms of David Scott and Co., and Fairlie, Bonham and Co., and also as representing the Firm of Fairlie, Fergusson and Co. of Calcutta, upon the Government of New South Wales, of which due satisfaction has not been obtained after long continued endeavours by our Agent and legal Representative from the local authorities in that Colony.

Claim for
compensation
for land leased
to J. Palmer.

The following exposition of its origin and circumstances, we trust, will serve to convince Your Lordship of the correctness of the claim and of the justice of our being allowed the redress sought for.

Particulars
of claim.

In the year 1802, Governor King, being desirous to convert a Piece of ground in the Town of Sydney, then in the occupation of Mr. John Palmer, into a Lumber Yard for the use of Government, gave to that Individual in exchange for it the Lease of some ground in another situation, containing 3 Acres, 32 Roods, upon which he erected two Windmills, one of Stone and another of Wood,

1833.
22 April.

Particulars
of claim.

together with a Bakehouse and Dwelling House at a cost of upwards £5,000. Mr. Palmer having mortgaged the said Lease and Premises to Mr. Robert Campbell, the latter in the year 1813 assigned the same to Messrs. Fairlie, Ferguson and Co. of Calcutta on account of our joint demands upon him in consideration of the sum of £3,789 12s. 6d.; But, a few months after this assignment, Governor Macquarrie having called on the Agent in possession, Mr. William Walker, to surrender this property to Government, the latter took occasion to remonstrate with His Excellency on the unprecedented hardship of being required to give up Leasehold Ground, whereon Buildings had been erected, it being without example since the foundation of the Colony that Government should demand the return of Lands upon which there was an outlay of Capital by the Lessee. In corroboration of which, permit us to refer your Lordship to a letter, dated Sydney, 16 February, 1822, to Our Predecessors, Fairlie, Bonham and Co. from the House of Jones, Riley and Walker, some of whose Members have resided in the Colony a period of 25 years. In farther corroboration, we would also refer to a letter from Mr. W. C. Wentworth, Solicitor, addressed to the Attorney General at Sydney, under date 17 March, 1825, which united testimonials may doubtless be appealed to as conclusive upon this point. After some discussion, the Governor agreed to refer the matter home to Earl Bathurst, then Secretary for the Colonies.

Renewal of
application for
compensation.

No decision was, however, signified during his Lordship's Administration, nor has been subsequently. Having thus experienced a very long interval of suspense and disappointment, we humbly presume to renew our application to be classed with other occupants of Land in New South Wales, who, although not having given as Mr. Palmer has done a valuable consideration for their properties, and, in many instances, held them upon mere verbal permission, have nevertheless, in virtue of an Order* of the Colonial Government, been allowed to convert these loose Tenancies into Fee Simple, a right of possession which we are surely warranted in regarding ourselves as equally entitled to with respect to Ground specified in the Lease in question, and for which a pecuniary concession to the Amount above named was made on our behalf to the existing Tenant on the full faith that Government would act towards us, as they had done to others, without exception holding Lands under the like circumstances, namely to permit our lease to be considered in the light of freehold property. We are, My Lord, not unaware that some legal doubts have been raised as to the validity of the Lease referred to in which our claim originates; but we respectfully submit that such objections should, in all justice and equity towards us, merge into and in point of practical effect be governed by the general consideration which has just been urged. For Your Lordship's satisfaction, however, and to shew that we are willing to afford every elucidation on the subject in our power, and to expose fairly the arguments which have been used on either side of this question, we beg leave further to submit in a set of papers annexed, Copy of the disputed Lease and of two Affidavits concerning the value of the Buildings erected, together with sundry correspondence, which has passed between the Colonial Government and our said Agent, which embrace all material points in the case, and from which our true position will be clearly seen, requesting most particularly to draw Your Lordship's attention to the

* Note 13.

concluding Paragraph of Mr. Campbell, the Government Secretary's letter of 26 September, 1814, and also to the communication from Mr. Alexr. McLeay, the present Government Secretary to our later Agent, Mr. Thomas Steele, dated 22d February, 1832, relative to a portion of our said claim, in which reference thereon is promised to be made to Your Lordship by the first opportunity.

1833.
22 April.
Renewal of application for compensation.

And, on the ground of these documentary Statements, which we think bear us out fully in assuming that the faith of Governor King was pledged in this case upon public grounds to afford fair reimbursement in return for the surrender of a valuable Allotment by Mr. Palmer to the Crown, we feel justified in asking from His Majesty's Government compensation to the extent of our loss sustained, reckoning the same as follows, and which we consider to be the most moderate Estimate that could justly be made under the rising situation of the Colony and improved value of Lands belonging to it, vizt. :—

Statement of claim.

Principal sum, at which the Ground in the above recited Lease, together with the Buildings thereon, was valued to us and others concerned	£3,789 12 6
Compound interest thereon from 31st March, 1815, date of required Surrender to 31st December last at 8 per cent. pr. annum is	11,069 2 6
	£14,858 15 0

In conclusion we beg permission of Your Lordship to add that we understand it to have been usual, when the Colonial Government has taken back Lease-hold Property upon which Capital had been expended by the Grantee or Holder, to make remuneration for the value thereof, either in Money or Colonial Property; and that, although it is not for us to prescribe to Your Lordship in which of these modes the desired Compensation shall in the present instance be afforded, we take the liberty to suggest that, if the latter be preferred, and should it be deemed unadvisable to convert our leased property into a Freehold Tenure disposable by us, on account of its contiguity to the Government House or otherwise, a Grant of Land in some unappropriated quarter of the Town of Sydney of equal value would prove a satisfactory mode of liquidation, in part of which, we would be content and undertake for others concerned to receive, should His Majesty's Government be pleased to make it over in fee, the piece of ground originally exchanged by Mr. Palmer, the same appearing to be no longer required as a Lumber Yard for which it was designed. This Allotment would, of course, have to be valued professionally on the spot with any other that Government might fix upon to make good the Amount of our claim.

Proposed compensation by grant of town allotment.

Entreating Your Lordship's pardon for the length of this address, which we hope the importance of its object will appear to justify, and trusting that our Appeal will receive the earliest convenient attention,

We have, &c.,
FAIRLIE, CLARK, INNES and Co.

[Sub-enclosure No. 1.]

[A copy of this deed of lease to John Palmer will be found on page 342, volume VIII.]

[Leases of property.]

1833.
22 April.
Leases of
property.

I, ANDREW FRAZER, Baker, in the Town of Sydney, in the Territory of New South Wales, do hereby certify that I rented the small Windmill Bakehouse and Dwelling house, erected by John Palmer, Esqre., on the West side of Farme Cove, adjoining the enclosure of the Government Domain for the period of one year, vizt., from the 1st of March, 1808, to the 1st March, 1809, and that I paid the sum of Six hundred pounds Colonial Currency as Rent for said premises.

his
ANDREW X FRAZER.
mark

PERSONALLY appeared before me, Andrew Frazer, Baker in Sydney, who being duly sworn deposed and saith that the matters and things set forth by him in the foregoing certificate are just and true to the best of his knowledge and belief.

his
ANDREW X FRAZER.
mark

Sworn before me the 23d day of May, 1815.

ELLIS BENT, J.A.

WE, Thomas Rose and Charles Thompson, Bakers, in the Town of Sydney in the Territory of N. S. Wales, do hereby certify that we rented the large Windmill, erected by John Palmer, Esqre., on the West side of Farm Cove, adjoining the inclosure of the Government Domain, during the period of one year, vizt., from the 21st of June, 1813, to the 21st of June, 1814, and that we paid the sum of Three hundred pounds Colonial Currency as rent for said Windmill.

THOS. ROSE.
CHAS. THOMPSON.

PERSONALLY appeared before me, Thomas Rose and Charles Thompson, Bakers in Sydney, who, being duly sworn, depose and say that the matters and things, set forth by them in the foregoing Certificate, are just and true to the best of their knowledge and belief.

THOS. ROSE.
CHAS. THOMPSON.

Sworn before me this 23d day of May, 1815.

ELLIS BENT, J.A.

[Sub-enclosures Nos. 2 and 3.]

[Copies of these letters, dated 20th and 26th September, 1814, will be found on page 346 et seq., volume VIII.]

[Sub-enclosure No. 4.]

MESSRS. JONES, RILEY AND WALKER TO MESSRS. FAIRLIE,
BONHAM AND CO.

Gentlemen, Sydney, 10th February, 1822.

With reference to the enclosed Duplicate of our letter of 12th Inst., we think it proper to state that the buildings, for which the remuneration is claimed from Governor Macquarrie under terms of his letter of 19 December, 1814, stood on part of the ground leased; and that the remaining and by far the greater part of the Allotment, together with a large and very costly building of a Windmill standing thereon, still remain in our possession by virtue of the lease, which Governor Macquarrie thought proper to say so

Property held
by Jones,
Riley and
Walker.

far back as 1814 had expired, and would then immediately be taken possession of by Government, but which threat has not up to the present time been executed.

1833.
22 April.

On this subject, we may further add that we are not aware that Government have in any instance taken back Leasehold property, upon which Capital had been expended by the grantee or holder without making the owner some remuneration either in Money or Colonial property for the same; and, in the present instance, the claim would appear to be particularly strong as the Lease itself expresses that a valuable consideration was given to Government for it, namely the piece of ground now occupied by Government as a Lumber Yard, and which from its local situation is an extremely desirable allotment.

Practise in
resumption
of leases.

Special
circumstances
in lease to
J. Palmer.

The property in question was taken from Mr. Campbell (to whom Mr. Palmer had mortgaged it) on your Account in April, 1814, at a valuation of £3,789 12s. 6d.

Valuation
of property.

We are, &c.,

JONES, RILEY and WALKER.

[Sub-enclosure No. 5.]

MR. W. C. WENTWORTH TO THE ATTORNEY-GENERAL.

Sir,

Macquarrie Place, 17th March, 1825.

In reply to your communications on the subject of the claim of Mr. Walker as Agent for the Assignees of the land on which the Windmill stands, I beg in the first place to enclose you all the documents in my possession, including the Lease itself, and secondly to inform you that Mr. Walker will not be satisfied with the sum he claims in the way of compensation for any but that part of the Lease to which this sum is referable by the valuation.

Submission of
claim by W. C.
Wentworth
as agent for
W. Walker.

Mr. Walker, however, is willing to resign the remainder upon receiving a just compensation for it, the amount of that compensation to be decided by Arbitrators indifferently chosen between him and the Government; you will perceive from the lease itself that the land was given to the original lessee in exchange for another and more valuable Allotment, upon which the Government Lumber Yard stands. Mr. Walker, seeing that the Government have had value for this land, considers that his Constituents should not be placed in a worse situation than those Occupants of land in this Town, who gave nothing for their land, and who in many instances, having entered upon their lands without any but a verbal permission, have nevertheless by force of the Government order* been allowed to convert these loose Tenancies into fee simples. Mr. Walker considers himself under that order entitled to demand on behalf of his Constituents either a fresh Lease or Grant at his option; and I beg on his behalf to add, what I am informed and believe to be true, that no person since the foundation of this Colony except during the arbitrary Government of Captain Blighe was ever deprived of any portion of Land, which he or the persons from whom he derived title were allowed to occupy without receiving some sort of compensation for it.

Under these circumstances, Mr. Walker feels himself bound in justice to his Constituents to demand from Government a fair equivalent for the piece of Land in question. I will thank you to return to me the enclosed documents when you have done with them.

I am, &c.,

W. C. WENTWORTH.

* Note 13.

1833.
22 April.

[Sub-enclosure No. 6.]

MR. J. T. CAMPBELL TO MR. W. WALKER.

Sir, Secretary's Office, Sydney, 19 December, 1814.

Proposed
settlement
of claim by
L. Macquarie.

I have it in command to acknowledge the receipt of your letter of the 28th Ult., which, with its enclosed valuation of Windmills and a house and Baking situated on the Government Domain, was submitted without loss of time to His Excellency the Governor.

Herewith you will now receive a new valuation of the above House and Baking, made on the 17th Inst. by the subscribing Persons, James Bean, Samuel Bradley and James Vandercour, making their value £479 15s. 6d.

In the event of His Majesty's Ministers authorizing the confirmation of the Conditional Lease made by Governor King of the ground on which these Buildings were erected, the Governor will direct payment to be made for the said House and Baking agreeably to the suggestion contained in your letter, now under answer, vizt. by a mean between the valuation transmitted by you, and that which I now enclose.

His Excellency, however, desires to remind you that the Buildings in question must be entirely removed on or before the 31st March next ensuing, agreeably to a communication already made you.

I have, &c.,

JOHN T. CAMPBELL, Secy.

[Sub-enclosure No. 7.]

COLONIAL SECRETARY GOULBURN TO MESSRS. JONES, RILEY AND WALKER.

Gentlemen, Colonial Secretary's Office, 30 November, 1821.

Invalidity
of lease.

In reply to your letter of this day's date, with its enclosure, I am directed by His Excellency the Governor to state that he made the application therein promised to His Majesty's Ministers; but, never having receiving any confirmation from them of the Conditional Lease made by Governor King, he still considers that Lease as invalid.

I am, &c.,

F. GOULBURN, Col. Secretary.

[Sub-enclosure No. 8.]

MAJOR OVENS TO MR. W. C. WENTWORTH.

Sir, Private Secretary's Office, 10th August, 1825.

Claim to be
referred to
Earl Bathurst.

By His Excellency the Governor's Commands, I have the honor to acquaint you, in reply to your letter of the 28th Ultimo, that he declines sanctioning the Payment of the claim of the persons, therein alluded to, but will refer the matter to Earl Bathurst.

I have, &c.,

J. OVENS, Private Secretary.

[Sub-enclosure No. 9.]

COLONIAL SECRETARY MACLEAY TO MR. T. STEELE.

Sir, Colonial Secretary's Office, 22d February, 1832.

Letter
acknowledged.

With reference to your letter of the 21st December, 1831, preferring, as Agent to Messrs. Ferguson and Co. of Calcutta, a claim upon the Colonial Government for the sum of Five hundred and thirteen pounds, one Shilling, the amount of the valuation of a Windmill and Bakehouse, which formerly stood on an allotment of

Ground on the West side of "Farm Cove," leased by Governor King to Mr. John Palmer, and which were removed at the desire of Governor Macquarrie by Mr. William Walker, then Agent for Messrs. Ferguson and Co., on the understanding that the sum above mentioned would be paid for them, should the lease of the ground alluded to be admitted as valid for twenty one years.

1833.
22 April.

I am directed by His Excellency the Governor to inform you that he will lay the claim submitted by you before the Secretary of State by the first opportunity, the promise of payment of the principal sum, as stated above, having been conditional and dependant on the concurrence of the Secretary of State, and without which His Excellency cannot take any further steps in the matter.

Claim to be submitted to secretary of state.

I have, &c.,
ALEXR. MCLEAY.

UNDER SECRETARY HAY TO GOVERNOR BOURKE.

(Despatch per ship Captain Cook.)

Sir, Downing Street, 24 April, 1833.

24 April.

I am directed by Mr. Secretary Stanley to transmit to you the copy of a Letter from Mr. John Masson, a gentleman who is interested in the payment ordered in the case of Thomas Clark, whose Wife, instead of proceeding in the same ship with her husband (the Arundel), appears to have gone out in the Ship "Sir John Rae Reid"; and I am to request, under the circumstances, stated by Mr. John Masson, that payment of the Sum ordered in favor of this party may be made in the manner solicited by him on the arrival of the female in question in the Colony.

Payment on account of wife of T. Clark.

I have, &c.,
R. W. HAY.

[Enclosure.]

MR. JOHN MASSON TO UNDER SECRETARY HAY.

Sir, 5 Lime Street Square, 18th April, 1833.

The Ship Arundel, John Henderson, Master, sailed for Sydney, New South Wales, April, 1832. A married man named Thomas Clark had the Advance made him, whose wife, upon arrival at Gravesend, found the Ship had sailed.

The despatch was No. 145.

I am about to send the woman out in the Ship Sir John Rae Reid; it is not unlikely that the man has renewed his Bill, which as a matter of course I presume would be demanded of him in such case. I shall hold the Arundel responsible for her Passage; but, should the contrary be the fact, I solicit such conditional order as may enable my correspondent at Sydney, A. B. Sparke, Esq., to receive the amount either for one vessel or the other, as by the Woman proceeding now the matter will be made perfectly correct as if she had proceeded direct in the first instance.

I am, &c.,
JOHN MASSON.

1833.
26 April.

UNDER SECRETARY HAY TO GOVERNOR BOURKE.
(Despatch per ship Captain Cook.)

Sir, Downing Street, 26 April, 1833.

Female
immigrants
per ship
Bussorah
Merchant.

With reference to my letter of the 12th Instant, I am directed by Mr. Secretary Stanley to transmit to you, for your information, a copy of a letter from Mr. Forster, with a List of the 217 Females, who were sent out by the Refuge for the Destitute in the Ship "*Bussorah Merchant.*" The sum of £1,302 has been advanced by the Lords Commissioners of the Treasury in part payment of the Bounty for these Females; and I am to desire that, in pursuance of the directions conveyed in my before mentioned letter, you will lose no time in repaying this sum into the Military Chest out of the Funds arising from the Crown Lands.

Advances to
immigrants.

I am, &c.,

R. W. HAY.

[Enclosure.]

MR. E. FORSTER TO UNDER SECRETARY HAY.

Sir, Mansion House Street, 18th April, 1832.

Female
immigrants
per ship
Bussorah
Merchant.

I have received the enclosed List from Mr. Branbridge, who left the "*Bussorah Merchant*" at Deal, in addition to which one young woman from Birmingham, who arrived in London too late to go on Saturday, was taken on board at Deal. Mr. Marshal, the Ship Broker, will I suppose certify to this; he is at present confined with the Influenza. By the account at Lloyds, the ship sailed last night.

I have, &c.,

EDWD. FORSTER.

[Sub-enclosure.]

[*This was an alphabetical list of the two hundred and seventeen women.*]

UNDER SECRETARY HAY TO GOVERNOR BOURKE.
(Despatch per ship Captain Cook.)

Sir, Downing Street, 28th April, 1833.

28 April.
Bills drawn
by surgeons
for passage
money.

I am directed by Mr. Secretary Stanley to transmit to you the Copy of a Letter from the Secretary to the Admiralty, together with its Enclosure from the Accountant general of the Navy, relative to the Bills which the Surgeons Superintendent of Convict Ships are allowed to draw to enable them, after the disembarkation of the Convicts, to provide themselves with Passages to England; and I am to request, with the view of obviating the inconvenience pointed out in the Accountant General's Communication, that all Bills, which may be drawn on such occasions, may bear on the face of them a certificate that your permission had been previously obtained.

I have, &c.,

R. W. HAY.

[Enclosure.]

1833.
28 April.

MR. J. BARROW TO UNDER SECRETARY HAY.

Sir,

Admiralty, 26 April, 1833.

I am commanded by the Lords Commissioners of the Admiralty to send you herewith a Copy of a letter from the Accountant General, suggesting that the Governors of the Colonies of New South Wales and Van Diemen's Land should be directed for the reasons stated to approve of the Bills drawn by the Surgeons Superintendent of Convict Ships for the purpose of providing themselves with passages home after the convicts have been disembarked; and I am to request you will move Mr. Secretary Stanley to give the necessary directions on this subject, their Lordships having authorized the requisite alteration in the Surgeon's Instructions.

Necessity for approval by governor of bills drawn by surgeons for passage money.

I am, &c.,

JOHN BARROW.

[Sub-enclosure.]

Department of the Accountant General of the Navy.

Admiralty, 25th April, 1833.

THE Accountant General requests their Lordships' consideration to the 41st Article of the Instructions to Surgeons Superintendent of Convict Ships, by which they are directed, on being discharged from their duty on the disembarkation of the Convicts, to apply to the Governor of the Colony for a Passage to England, and, in the event of His Excellency not having an opportunity of providing them therewith, the Surgeons are allowed to draw upon the Account General for £100 to enable them to provide their own conveyance and mess; And, as the Bills drawn in such cases are mostly presented for payment before the arrival of the Governor's Certificate of permission to these Officers to return to England (which Document is required by the 40th Article, to shew the period for the Allowance of their Lodging money while on shore, and would serve, if it arrived in time, as proof of there not having been any opportunity of providing a passage for them home), this Office is exposed to the uncertainty whether such permission was obtained previously to the Passage being taken, and consequently a doubt is created whether the Surgeons do right in drawing such Bills.

In order therefore to obviate this inconvenience, and the necessity of charging the Bills, as Imprests, until the proper Documents arrive, the Accountant General begs to submit to their Lordships the propriety of suggesting to the Secretary of State for the Colonies to instruct the respective Governors of New South Wales and Van Diemen's Land to approve of the Bills drawn in these cases (so as to render the Certificate unnecessary) and of their Lordships authorizing an alteration to the above effect in the 41st Article of the Surgeons' Instructions before alluded to.

JOHN S. BRIGGS,

Accountant General.

RIGHT HON. E. G. STANLEY TO GOVERNOR BOURKE.

(Despatch No. 8, per ship Captain Cook.)

Sir,

Downing Street, 29 April, 1833.

29 April.

I have the honor to acknowledge the receipt of your despatch No. 86 of the 8th September last, reporting the arrival of the Ship "Red Rover," without any Instructions from Lord

Despatch acknowledged.

1833.
29 April.
Payment of
freight on ship
Red Rover.

Goderich to pay on her arrival the moiety of the Freight left unpaid on her departure from this Country, and mentioning your decision, upon a general consideration of the circumstances of the case, to furnish the Master with Bills on the Treasury, instead of making an immediate payment. The course, which you adopted, appears to me to have been the most judicious which could have been taken with the information you then possessed, and I have to express my approval of it. But the arrival of Mr. Hay's despatch of the 24th of May last will have apprised you that it was the intention of His Majesty's Government, that the second moiety of the freight should be paid in the Colony, and that both moieties should thus be drawn from the Funds arising from the Crown Lands. You will, probably, therefore have paid before this time the sum left due to the Military Chest. In order, however, to ensure a correction of the mistake, which has taken place, I have deemed it right to furnish you with the present Instruction to transfer to the Military Chest, if it have not already been done, the sum necessary to complete a repayment of the whole amount advanced from His Majesty's Treasury on account of the expences of the *Red Rover*.

I am, &c.,
E. G. STANLEY.

RIGHT HON. E. G. STANLEY TO GOVERNOR BOURKE.

(Despatch No. 9, per ship Captain Cook.)

30 April.
Despatches
acknowledged.

Sir,

Downing Street, 30 April, 1833.

I have received the Despatches addressed by you to my Predecessor of the numbers and dates specified in the margin.*

Approval of
schedule of
fixed
contingencies.

The Schedule of fixed Contingencies, transmitted with your Despatch No. 89, is approved by His Majesty's Government. The allowances, however, for travelling expences granted in the case of the Attorney General, the Commissioner of the Courts of Requests and the Sheriff, whilst absent from Sydney in the execution of their duties, appear to be higher than circumstances warrant; and, although I am aware that this subject has been fully gone into, in consequence of Lord Goderich's despatch No. 24 of the 10th of March, 1831, I cannot avoid again calling your attention to it, in the hope that you may be able to reduce this item of Expenditure in the next Estimates, which you may bring before the Council. In the event of your finding it practicable to diminish the charge on this account in respect to the Officers above mentioned, it will of course be desirable to effect

Proposed
reduction in
travelling
allowances.

* *Marginal note*.—No. 89, 18 Sepr., 1832; No. 108, 28 Oct., 1832.

a corresponding reduction in the travelling allowances granted to Officers filling subordinate situations, to whom a lower rate of remuneration is already assigned.

1833.
30 April.

The Estimates of Revenue and Expenditure, which accompanied your despatch No. 108 for the year 1833, do not appear to require any particular observation, beyond the expression of my approbation of the very complete and satisfactory manner, in which you have brought the several items, referred to in these Estimates, under the consideration of the Council, and my satisfaction at receiving the Information contained in your Minute, which explains the diminished charge for the Civil Establishment of your Government for this year, as compared with that for the last; arising, as it appears, from the reductions which have been effected in some of the Departments.

Approval of
financial
estimates.

The protests of Mr. Blaxland against the payment to Mr. McLay of the sum of £750 a year from the Colonial fund, in addition to his Salary as Colonial Secretary, and against the Appointment of a Resident at New Zealand, have not been overlooked by His Majesty's Government. In reference to the payment first mentioned, I have to express my apprehension that it will not be possible for the reasons, which were stated by Lord Goderich in his Despatch of the 29th of Sept., 1831, to discontinue the payment of this sum to Mr. McLay; but I see no objection to relieve the Colonial fund from the charge by transferring it to that derived from the Droits of the Crown (which, as you are aware, are reserved for the purpose of being appropriated to such specific objects as His Majesty may direct), should you see no objection to that arrangement.

Reply to
protests by
J. Blaxland re
payment to
A. Macleay;

In regard to the Resident at New Zealand, against which Appointment Mr. Blaxland has also remonstrated, I do not consider his representations entitled to the same consideration. The Appointment was made at the request of Merchants connected with New South Wales as well as upon the suggestion of your Predecessor; and, as such an Appointment appears as necessary for the protection of the Trade which is carried on between New South Wales and those Islands, as for the interests of the Europeans who have established themselves there, I cannot acquiesce in the soundness of the objections, which Mr. Blaxland has urged against it, or rather against the Salary of £500, which has been assigned by His Majesty's Government to the officer who has been selected for the situation in question.

and re salary
of J. Busby.

I am, &c.,
E. G. STANLEY.

1833.
30 April.

RIGHT HON. E. G. STANLEY TO GOVERNOR BOURKE.
(Despatch No. 10, per ship Captain Cook.)

Sir, Downing Street, 30th April, 1833.

Proposed
subsidy for
education of
Roman
Catholics.

I have received your Dispatch No. 115 of the 17th November last enclosing a Letter from the Revd. J. McEncroe, one of the Roman Catholic Chaplains in New South Wales, submitting the propriety of a larger Sum, than is at present appropriated, being set apart for the support of an additional number of Priests, and for the Instruction of the Roman Catholic Population of that Colony.

The Dispatches, which have been so recently addressed to you upon this subject by my Predecessor, render it unnecessary that I should offer any observations in answer to Mr. Encroe's representations, further than to assure you that the same readiness exists on my part, which has been expressed by Lord Goderich, to second any arrangement which the Council of your Government may propose for remedying the Evil, which is stated to exist in this particular.

Surprise at
remarks by
Revd. J.
McEncroe.

After the disposition manifested by the Government (especially in the case of Mr. McEncroe's own appointment) to provide for the wants of His Majesty's Roman Catholic Subjects in New South Wales, I cannot but express some surprize that Mr. McEncroe should have deemed it necessary, in support of the claims which he has undertaken to advocate, to remark in the very objectionable terms employed in his Letter upon the amount of funds provided for the maintenance of the Established Church and for the conversion of the Aborigines, as compared with those which have been appropriated for purposes of religion, in reference to the Roman Catholic Population of the Colony.

I am, &c.,
E. G. STANLEY.

UNDER SECRETARY HAY TO GOVERNOR BOURKE.
(Despatch per ship Captain Cook.)

1 May.

Sir, Downing Street, 1st May, 1833.

Refusal by
R. Bourke to
pay bounty
on immigrants.

I am directed by Mr. Secretary Stanley to transmit to you the Copy of an application, which has been addressed to this department by Messrs. Buckles, Bagster and Co., on the subject of the Bounty, which you have declined to pay under the circumstances which they have stated; and, as it appears to have been the understanding between this department and the respective ship Owners, who undertook the conveyance of Emigrants

to the Australian Colonies, that the utmost liberality would be shewn to them in all cases in which Indulgence could be given, Mr. Stanley has directed me to inform you that he considers Messrs. Buckles and Bagster entitled to the payments, which they have claimed on account of the two females in question. Before issuing however the Bounty in the case of "Catherine Hodges" who appears to have embarked under the feigned name of "Catherine Watts," you will require the Agent of Messrs. Buckles and Bagster to identify this female as having actually proceeded to the Colony in the Ship for which her Passage is claimed.

I have, &c.,

R. W. HAY.

1833.
1 May.

Instructions
for payment
of bounty.

[Enclosure.]

MESSRS. BUCKLES, BAGSTER AND BUCKLE TO UNDER SECRETARY HAY.

Sir, 33 Mark Lane, 29th April, 1833.

We beg leave to represent to you that His Excellency the Governor of New South Wales has declined payment of two warrants for Bounty to females embarked in the Ship *Renown*. in the month of May last year; the one on account of an incorrectness in the name, being in favor of Catherine Watts in place of Catherine Hodges; the other in favor of Emma Langenhand, who had been a very riotous inmate of St. Mary le Bone Workhouse, and, after a long continuance of violent and refractory conduct on board Ship, ultimately threw herself overboard on the 25th July and, notwithstanding every effort to save her, was unfortunately drowned.

The warrants were received by us as part payment of the Passage money; and, in the full confidence that nothing short of premeditated and proven fraud on His Majesty's Government would render them invalid, we therefore respectfully request that renewed instructions may be forwarded to the Governor authorizing his Excellency to pay our Agent the full amount of these two recited warrants, notwithstanding the irregularity in the name of one Female, and the suicide of the other.

We beg leave to enclose a Letter from the Secretary to the Directors of the Mary le Bone Poor house in explanation of an enquiry addressed to him.

We have, &c.,

BUCKLES, BAGSTER and BUCKLE.

Refusal by
R. Bourke to
pay bounty on
immigrants.

Request for
payment.

[Sub-enclosure.]

WATTS TO MESSRS. BUCKLE AND CO.

Sir, St. Mary le Bone Work House, 29 April, 1833.

I have enquired concerning the name of *Catherine Watts* as mentioned in your note, and find that Catherine Hodges for reasons best known to herself used to go by that name at times, but her real name is *Catherine Hodges* and as such we know her.

I am, &c.,

WATTS.

Name assumed
by C. Hodges.

1833.
1 May.

GOVERNOR BOURKE TO VISCOUNT GODERICH.
(Despatch No. 37, per ship Clyde; acknowledged by
right hon. E. G. Stanley, 5th November, 1833.)

My Lord,

Government House, 1st May, 1833.

Land grant
claimed by
C. Cooper.

I have the honor to transmit a Memorial, addressed to me by Mrs. Henry Cooper upon the subject of a Grant of Land in this Colony, which she claims by virtue of an Order made by Sir Thomas Brisbane to her husband in 1825. As I have not felt myself authorized to allow Mrs. Cooper's claim, she has requested me to obtain Your Lordship's commands upon the subject. In so doing, I beg leave to observe that there are in the Colony many persons similarly circumstanced, by whom an equal claim might be made, and in whose favor an inconvenient precedent might be formed, were your Lordship to accede to the present application. The facts of the case are as follows:—

Danger of
creating
precedent.

Details
of claim.

In 1825, Mr. Henry Cooper, an Architect and Free Emigrant, received from Sir Thomas Brisbane an Order to select 600 Acres of Land, which however he neglected to do until the Month of August, 1831, when he applied for a renewal of the order. This was refused by my Predecessor in consequence of the application being made, subsequently to the promulgation in the Colony of the Regulations for the Sale of Land, as also long after the publication in the Gazette of a notice from General Darling directing all persons, holding Orders for Land from former Governors, to select before the expiration of a certain day or to consider their order as cancelled, but of which notice Mr. Cooper had not availed himself within the stipulated time. From the decision of my Predecessor, to which I have adhered, Mrs. Cooper now appeals; but, considering the circumstances of the case, I cannot recommend Your Lordship to comply with her request.

I have, &c.,

RICHD. BOURKE.

[Enclosure.]

THE MEMORIAL OF MRS. HENRY COOPER.

Memorial of
C. Cooper
claiming
land grant.

MAY it Please Your Excellency,

Your Memorialist, Charlotte Cooper, with her Husband Mr. Henry Cooper, Architect and Builder, sailed from England in the Year 1824 in the Ship Hugh Crawford as Free Emigrants and arrived in this Colony in the Month of April, 1825.

Upon Our arrival, Mr. Henry Cooper waited upon Sir Thomas Brisbane, the Governor for the time being, with the customary presentation letter from the Secretary for the Colonies, authorising him to receive a Grant of Land, to which his Excellency was pleased to accede, addressing an Order to Thos. Oxley, Esq., then Surveyor, to allow him to select 640 Acres, which Order is now among the Records at the Surveyor General's Office.

As Your Memorialist's Husband had for many years carried on an extensive business as Architect and Builder in the City of London, and as there were but few persons of that profession in the Town of Sydney at that period, he was induced to forego an immediate location on the Land ordered to him, and to practise his business in the Capital of this Rising Colony. He consequently engaged extensively in Buildings, and was frequently resorted to by H.M. Government. He purchased a large Town Allotment by the Waterside of Darling Harbor, and was instrumental in effecting improvements thereon to the extent of £8,000. He also erected for other Individuals several large edifices in the Town of Sydney. His engagements engrossing the whole of his attention and time seriously affected his health, confining him frequently to his Home for a period of Nine Months, and rendering him both unable to attend to his daily avocations and the Land in question acceded to by the Government.

The Health of Your Memorialist's Husband being so seriously affected, he was under the necessity of returning to England about 18 months ago, and, as Your Memorialist has heard of his being much recovered, she is about to leave this Colony in the Ship Edward Lombe to accompany him back.

Your Excellency may remember that, about six Months ago, Your Memorialist waited upon you with the Prayer that the Grant of Land in question might be conceded to her, and that you were pleased to shew a favorable consideration to her request, and to promise that you would forward her Memorial to His Majesty's Minister setting forth the ground of her claim. Therefore, Sir, as she now goes to England herself with the intention of returning in about 15 Months with her husband, she sincerely hopes that Your Excellency will notice the Prayer of her Petition and as in duty bound will ever pray.

[Unsigned.]

New South Wales, Darling Harbour, 13 April, 1833.

GOVERNOR BOURKE TO VISCOUNT GODERICH.
(Despatch No. 38, per ship Clyde.)

My Lord,

Government House, 1 May, 1833.

I have the honor to acknowledge the receipt of your Lordship's Despatch of the 27 Decr., 1831, No. 55, enclosing an Extract from a Report of the Comptrollers of Army Accounts relative to the distribution of Convicts amongst the Civil and Military Officers at Penal Settlements, their occupation in fabricating articles for sale at Sydney for the benefit of their Masters, and the employment generally of Convicts in Places of Trust, and conveying to me Your Lordship's Instructions to call upon all Officers, whether Civil or Military, to refund the value of the Provisions drawn by them for their regulated Civil Servants for the period that Convicts were allowed them.

With reference to this Instruction, I beg leave to enclose a letter from the Deputy Commissary General at this Station, by which it appears that he is not aware of any Officers having

1833.
1 May.

Memorial of
C. Cooper
claiming
land grant.

Despatch
acknowledged.

No record of
convict
servants
maintained by
government.

1833.
1 May.

Convict Servants fed and clothed by Government, whilst receiving the regulated allowance for their Civil Servants, nor can I from any other sources of Information discover the persons to whom the Comptrollers of Army Accounts allude.

Convict
servants for
officers at
penal
settlements.

With respect to the distribution of Convicts at Penal Settlements, I have the honor to transmit the Copy of a Regulation of this Government, by which Your Lordship will perceive that Officers, Stationed at Penal Settlements, are allowed the Services of Convicts in Numbers proportioned to their Rank. The Constitution of Penal Settlements, which prevents the Establishment of any kind of Market, and deprives Officers stationed there of the power of purchasing any necessary supplies of Vegetables, Milk, and other Articles, obliges them to resort to other means for their production, which, without some assistance in Convict Servants of the kind now afforded, would render those Stations extremely inconvenient and expensive, and add much to the privations which under the most favorable circumstances Officers are doomed to experience there. I would therefore very respectfully submit the propriety of allowing them to retain the limited number of Convict Servants authorized by the existing regulation.

Alleged sale of
articles made
by convicts.

With respect to the manufacture by Convicts of Articles sold in Sydney for the benefit of their Masters, such a practise was, I am informed, never authorized by this Government, and, if at any time it did exist, I am confident it is now abandoned.

Objections to
employment
of convicts in
places of trust.

The employment of Convicts in places of Trust is a measure from which, in my Despatch 4 February last, No. 18, I have expressed myself wholly averse; and, whenever an opportunity has offered of removing a Convict from such an employment under this Government and of substituting a Free Man in his place, I have availed myself of it.

I have, &c.,

RICHD. BOURKE.

[Enclosure No. 1.]

MR. J. LAIDLEY TO COLONIAL SECRETARY MACLEAY.

Sir,

Commissariat Office, Sydney, 11th June, 1832.

Report re
convicts
assigned to
officers at penal
settlements.

I have the honor of your letter of the 6th. and in reply beg to acquaint you that I am not aware of any Officers at Port Macquarie or any other Settlement, whether Penal or otherwise, who have received Convict Servants fed and clothed from the Stores, and at the same time have drawn provisions for their regulated Civil Servants; nor is it consistent with my knowledge that any Commissariat Officers fall under the head.

The Commandants at these Settlements may indeed have exercised a discretion in allowing Officers the temporary Service of Convicts under their Control; in such cases, the Men have continued

to be returned to the Commissariat as in Government Employ, and have received Provisions and Clothing accordingly. Provided the Commissariat Officer at the Station was satisfied with the numerical accuracy of the returns rendered to him, it did not behove him to interfere with the distribution of the Convicts, or the manner in which the Commandant chose to employ them.

The Information desired might I presume be best obtained from the Registers of the Employment of Convicts kept at the different Settlements.

I have, &c.,

JAMES LAIDLEY.

1833.
1 May.

Report re convicts assigned to officers at penal settlements.

[Enclosure No. 2.]

EXTRACT of the Regulation for the Management and discipline of the Penal Settlements of New South Wales, as relates to the number of Servants allowed to each officer at such Stations.

Regulation re servants for officers at penal settlements.

Dated 12th August, 1829.

As all Servants under these Regulations are to be victualled from the public Stores, the number that each officer is allowed to take to the Settlement is limited as follows:—

Military Officers as fixed by Regulations according to their Rank.

Civil Officers (free of expence), if married, not exceeding Two; If unmarried, One.

To enable the officer of the Settlement to cultivate the Gardens allotted to them, they shall be allowed to have Convicts appropriated to their service in the following proportion:—

Commandant, Three men; Civil and Military Officers, Two each.

These men are not to be Mechanics or Tradesmen, and are to be allowed in addition to any Servants they may have been permitted to take with them to the Settlement.

GOVERNOR BOURKE TO VISCOUNT GODERICH.

(Despatch No. 39, per ship Clyde; acknowledged by right hon. T. Spring Rice, 25th July, 1834.)

My Lord,

Government House, 1 May, 1833.

I have the honor to transmit a Resolution of the Legislative Council, passed at the last Sitting, by which Your Lordship will perceive It is proposed to take off the duty on the distillation of Spirits from grain or other produce of this Colony.

Resolution by council re duty on distillation of spirits.

That your Lordship may be enabled to enter the more readily into the Merits of the proposed measure, I will take the liberty of laying before you such details as bear upon the question, as it relates to the distillation of Spirits within the Colony and to the importation of Spirits from abroad; and first I would state that

1833.
1 May.

Duties on
spirits distilled
in or imported
into colony.

the following are the duties of Customs and Excise upon Spirits, made in or imported into this Colony:—

- I. "On Spirits, made or distilled from Grain the produce of the Colony, a duty of 2s. 6d. per gallon."
 - II. "On Spirits, the produce and manufacture of the United Kingdom or His Majesty's Plantations in the West Indies, imported directly from the United Kingdom, a duty of 6s. 6d. per gallon."
 - III. "On all other Spirits, made within or imported into the Colony, a duty of 8s. 6d. per gallon."
- "11 Geo. 4, No. 9."*

By a later Act, Canada Spirits are admitted on the same terms as West Indian.

Spirits distilled
in colony.

There is but one licensed Distiller in New South Wales, who resides in Sydney, and has distilled annually about 9,000 Gallons upon an average of the last seven years. The duty charged has thus averaged about £1,150 per annum. It has been collected by the means of a small Excise Establishment, which for some time cost about £700, but is now reduced to £454 a year. There is another Distillery upon a large Scale in Sydney, which has been completed I believe more than two years, but the Proprietor has not thought fit to work it. There are no licensed Distilleries in the Country Districts, but some small Stills have occasionally been used in Private Houses in the distant Counties of the South and West, where grain is raised more freely than in the Eastern and more populous part of the Colony. These Stills have at times thrown off small portions of Spirits made from the surplus grain of the Farm for private use. Upon the Spirit thus manufactured, no duty has been paid or demanded. Beyond Sydney, there is no Excise Establishment nor any licensed Distiller, and, with the private distillation to which I allude, the government has not thought it worth while to interfere. The quantity of Spirits thus distilled has been too trifling to injure the business of the Licensed Distiller or to affect the Revenue in any perceptible way.

Reasons for
proposed
change in law.

Such being the present state of Colonial Distillation, there would be no reason for proposing any change in the Law with respect to it, if this state of things were likely to be permanent; but there is said to be a growing disposition in the Colony for private distillation; and it is generally asserted that a succession of two or three favorable years for grain would place a small still on almost every Farm in the Districts of Bathurst, Argyle and

the Hunter's River. On Spirits thus produced, it would be vain to expect any considerable payment of duty. The inclination to avoid it is at least as strong here as in other parts of the world, and the nature of the Country, consisting in many tracts of thick wood and rocky Hills, is peculiarly favorable to illicit distillation. The inducement to the practise is doubtless very considerable, as the high duties on imported Spirits, together with the expense of Carriage, raise the price of Run (the Spirit most in use) in the Country Districts to the rate of 14 Shillings a gallon wholesale, and about 20s. by Retail. The practise of illicit distillation prevailing to any extent would not merely injure the Revenue, but produce the moral evil with which it has always been accompanied. The Council, therefore, believing illicit distillation to be on the increase, and considering that it cannot be altogether put down in this Country by Laws, however severe, and Establishments, however expensive, considering also the small amount of duty now obtained from the licensed Distiller and the expense of collecting it, and the stimulus to Agriculture which an unrestricted freedom to distill would impart, have been induced to propose an entire abandonment of the Excise duties.

To this proposal, there would perhaps be no difficulty in acceding, if the Revenue derived from Colonial Distillation were the only consideration. It is, however, to be remembered that about three fourths of the whole Revenue of New South Wales is derived from the duties of Customs upon imported Spirits. At the rates hereinbefore specified, the duties in the last year amounted to £81,500. It is, therefore, of importance to consider how far this Revenue is likely to be impaired, if the Excise duty on Spirit manufactured in the Colony were removed. There is, I believe, no doubt that, at the ordinary price of grain and at the present rate of duties, a Spirit can be manufactured in the Colony at a cheaper rate than the Importer can afford to sell. In fact, the usual market price of Colonial Spirit is now about 1s. 6d. per gallon below the imported of the cheapest kind. Nevertheless the quantity of Colonial Spirit hitherto brought into the market has been too trifling to interfere in any perceptible way with the sale of the imported, the quantity of grain either grown in New South Wales or brought in from Van Dieman's Land not having afforded any large Stock for distillation; nor has the price given by the Distiller induced any extended cultivation for the purpose of supplying him. If, however, the existing duty were taken off, the Distiller might find his account in giving a higher price for grain thus stimulating the Agriculturist to produce it, whilst at the same time he could

1833.
1 May.

Reasons for
proposed
change in law.

Revenue
derived from
customs duties
on spirits.

Possible effect
on revenue by
abolition of
excise duty.

1833.

1 May.

Possible effect
on revenue by
abolition of
excise duty.

afford to undersell the Importer, whilst the latter remained subject to the high Custom duties. That this would be the consequence of the removal of the duty at some distant period is more than probable; but a considerable time would elapse before, at the present price of labor, it could be possible or profitable to raise much Grain either in New South Wales or Van Dieman's Land for the price which the Colonial Distiller could afford to pay.

Probable
distillation
of spirits from
sugar.

But there is another Article from which, at the present prices of both, Spirits can be manufactured at a rate full 25 per cent. cheaper than from grain. I allude to Sugar imported from Mauritius, from which substance Beer is now chiefly brewed in Sydney. If distillation from grain only were to be free of duty, it would require a most expensive excise Establishment to prevent the Distiller from the use of Sugar; whilst, without such an Establishment, a Spirit would get into use, from which no duty would be derived and prepared from an article from the consumption of which no benefit would result to the agricultural interest of the Colony. It might indeed be possible, without any encrease of officers, by a high Custom duty on the importation of Sugar to render it too expensive for the Distiller as compared with grain; but this measure would be one of great inconvenience by raising the cost of an article, which in so many ways enters into the wholesome consumption of the people.

Difficulties
involved.

From the foregoing statement, Your Lordship will perceive the difficulties of the question, which it will be impossible altogether to escape at a period, which by many well informed Persons is thought to be fast approaching. I am not, however, inclined to think that illicit distillation is likely to encrease considerably for some time to come; but I confess I should have no hope of being able to put it down, if the article to be distilled became abundant and that the inducement to distil continued high. My present intention is to leave the matter as it stands, hoping to receive Your Lordship's Instructions before it shall become necessary to make any change.

I have, &c.,

RICHD. BOURKE.

[Enclosure.]

EXTRACT from the votes and proceedings of the Legislative Council on the 12th October, 1832.

Motion by
legislative
council in
favour of
abolition of
excise duty.

MOTION was made and question put, that His Excellency the Governor be requested to communicate to the Right Honorable the Secretary of State for the Colonies the recommendation of this Council, that, with a view to the greater encouragement of Agriculture, the duties, now charged on spirits distilled from grain or other produce of the Colony, should be repealed, more especially

as, in this thinly-peopled Country, it would be impracticable, even with the most expensive establishment of Excise, to prevent illicit distillation, while the revenue hitherto derived from this source has been of small amount, and the expenses of collection comparatively large. Passed without a division.

A true Extract:—E. DEAS THOMSON, Clk., Col.

1833.
1 May.

GOVERNOR BOURKE TO VISCOUNT GODERICH.

(Despatch marked "Private," per ship Clyde.)

My Lord, Government House, Sydney, 1 May, 1833.

In reply to Your Lordship's letter of the 11th October last introducing Mr. Sackville Lambert, I have great pleasure in stating I have been able to name him to an appointment in the County of Camden with about £150 a year, where he is Clerk to the Bench of Magistrates and Registrar of the Court of Requests.

Appointment given to S. Lambert.

I have, &c.,

RICHD. BOURKE.

GOVERNOR BOURKE TO VISCOUNT GODERICH.

(Despatch marked "Private," per ship Clyde.)

My Lord, Government House, Sydney, 1 May, 1833.

I have the honor to reply to Your Lordship's letter of the 21st August last, recommending to the protection of this Government the Family of the late Mr. Balcombe, who formerly filled the Office of Colonial Treasurer. Mrs. Balcombe and her daughter have lately arrived. As it is by the employment of her Sons that this Lady proposes to benefit by Your Lordship's favorable disposition towards her, I will state briefly how they are situated. The eldest Son, Mr. William Balcombe, resides upon Land granted him in Argyle above one hundred Miles from Sydney. I do not believe that he is well qualified to fill, nor do I imagine would desire any small Colonial appointment, such as it might be possible to offer him. Another Son, Mr. Thomas Balcombe, is a Draftsman in the Surveyor General's Department with a Salary of £150 a year. He is not well spoken of by his superior, and it was in consequence my intention to have reduced him on the first opportunity. The third Son, Mr. Alexander Balcombe, is now without employment, having been dismissed by my Predecessor in April, 1831, from the Situation he held as Clerk in the Commissariat on account of negligence. From this statement, Your Lordship will perceive that it may not be practicable very speedily to assist Mrs. Balcombe in the way that has been pointed out, but I will not fail to bear in mind Your Lordship's wishes on this subject.

Recommendation in favour of family of W. Balcombe.

Report re sons of W. Balcombe.

I have, &c.,

RICHD. BOURKE.

1833.
2 May.

GOVERNOR BOURKE TO VISCOUNT GODERICH.
(Despatch No. 40. per ship Clyde.)

My Lord, Government House, 2d May, 1833.

Transmission
of report *re*
appointments
by R. Darling.

With reference to Your Lordship's Despatch of the 8th August, 1832, No. 116, directing me to report to the Lords Commissioners of the Treasury the grounds upon which certain appointments and increased allowances were made by General Darling, I have the honor to transmit the copy of a letter* which I have addressed to the Secretary of the Treasury on the subject.

I have, &c.,

—————
RICHD. BOURKE.

GOVERNOR BOURKE TO VISCOUNT GODERICH.
(Despatch No. 41, per ship Clyde; acknowledged by
right hon. E. G. Stanley, 28th September, 1833.)

My Lord, Government House, 2 May, 1833.

Departure of
J. Busby for
New Zealand.

With reference to the Despatches noted in the margin,† I have the honor to inform your Lordship that Mr. James Busby sailed for the Bay of Islands in New Zealand in His Majesty's Ship *Imogene*, Commanded by Captain Blackwood on the 21st of last month. I had delayed Mr. Busby's departure for some time in the hope of receiving an Act of the Imperial Parliament, containing the Provisions to which Your Lordship referred to in Your despatch of the 14th June, 1832, No. 103. Finding however that the proposed Act had not passed in the last Session of Parliament, I thought it no longer advisable to detain the Resident here; but, having furnished him with such Instructions as the present state of the Law authorized and the objects of his employment seemed to require, I despatched Mr. Busby on his Mission. A Copy of his Instructions are transmitted herewith.

I have, &c.,

RICHD. BOURKE.

[Enclosure.]

[*These instructions, dated 13th April, 1833, will be found in a volume in series III.*]

GOVERNOR BOURKE TO HON. J. STEWART.
(Despatch per ship Clyde.)

Sir, Government House, 2 May, 1833.

In obedience to the commands conveyed to me in Viscount Goderich's despatch of the 8th August, 1832, I have the honor to transmit for the information of the Lords Commissioners of the

* Note 14.

† *Marginal note.*—31 January, 1832, No. 63; 18 March, 1832, No. 75; 14 June, 1832, No. 103; Mr. Hay's, 14 June, 1832.

Treasury a Statement of the grounds, upon which the under-mentioned appointments and increased allowances were made by General Darling.

1833.
2 May.

Report re
appointments
and increased
allowances
authorised by
R. Darling.

Appointment of a Clerk to Mounted Police. This appointment was authorized by General Darling on the 5th January, 1831, in consequence of a representation made by the Commandant of the Mounted Police of the necessity of such assistance, and I am of opinion that without this it would be impossible for that officer to conduct his duties.

Increase of Salary of Superintendent of Carters' Barracks. The increase of this Salary, from £127 15s. to £150 per annum, was made by General Darling with the advice of the Executive Council in consequence of a representation from the Superintendent of the arduous nature of his duties and the low rate of his pay in comparison with that of others in similar situations. This increase was made subject to the approval of the Secretary of State and was reported in General Darling's Despatch, dated 5th February, 1831, No. 18, to which however no reply has as yet been received.

Appointment of Mr. W. K. Ogilvie, Clerk to the Bench of Magistrates at Merton £70 per annum.

This appointment was made in consequence of the representations of the Magistrates of the District, and is absolutely necessary to enable them effectually to carry on their duties. It does not appear to have been reported to the Secretary of State by General Darling.

Appointment of Mr. John Robinson as Clerk to the Master Attendant at 5s. per diem.

The salary of this Officer was increased in consequence of the substitution of a free man in lieu of a Convict, and a communication to that effect made to the Secretary of State in General Darling's despatch of the 5 February, 1831, No. 18, to which no reply has as yet been received. The Fees received in this Office, which amounted to a considerable Sum, and the responsible nature of the Clerk's duties rendered it necessary to appoint a Free Man.

Lodging allowance to Lieutenant MacAlister, Commanding the second Division of Mounted Police.

This allowance was made to Mr. MacAlister in lieu of the Quarters to which as a Subaltern he is entitled.

I have, &c.,

RICH. BOURKE, M. General.

1833.
3 May.

GOVERNOR BOURKE TO VISCOUNT GODERICH.
(Despatch No. 42, per ship Clyde; acknowledged by
right hon. E. G. Stanley, 28th September, 1833.)

My Lord, Government House, 3rd May, 1833.

Appointment
of letter-sorter
at post-office.

The Postmaster of this Colony having represented the inadequacy of his Establishment and the necessity of allowing him additional Clerks to enable him to carry on the increased and increasing duties of his Office, I appointed a Board to examine and report upon the state of the Department. The Board have recommended the appointment of a letter Sorter at the Salary of four Shillings per diem, with which I have complied. The Postmaster still complains that his Establishment is deficient, and, judging by the augmented Revenue of the Office, I can have no doubt the labor has much increased; and it is probable I shall find it necessary to make further additions to the Department. At present, it consists as stated below, and I have to request Your Lordship's permission to place it in the Schedule of the Fixed Establishment of the Colony accordingly.

Establishment
of post-office.

	£	s.	d.
Postmaster of the Colony	400	0	0
Three Clerks, one at £160, one at £120, and one at £80 per ann.	360	0	0
One Letter Sorter at 4s. a day	73	0	0
Three Letter carriers, one at £40 and two at £30 per ann. each	100	0	0
	<hr/>		
	£933	0	0

I have, &c.,
RICHD. BOURKE.

GOVERNOR BOURKE TO VISCOUNT GODERICH.
(Despatch No. 43, per ship Clyde.)

6 May.

My Lord, Government House, 6 May, 1833.

Transmission of
correspondence
with
Sir E. Parry.

At the request of Sir Edward Parry, Commissioner for the Australian Agricultural Company, I have the honor to transmit Copies of several communications, which have passed between him and this government upon the subject of the second Selection of Land, allowed to the Company by Secretary Sir George Murray's Despatch of the 21st April, 1830, No. 23.

In forwarding these Papers, I have little to add in the way of explanation, to what I have already had the honor to address to your Lordship in my Despatch of the 17th September last, No. 88. In that communication, I stated that I had declined acceding to the Commissioner's proposal to take up two locations, one on Peel's River and one on Liverpool Plains, as both were

defined by arbitrary Lines laid down in a manner, calculated to give the Company a much greater proportion of good land than is usually found in locations of much smaller size, as well as the unauthorized possession of large tracts from which other Colonists would be excluded by the Company's occupation of nearly all the Water. In that despatch, I further stated that, with the view of granting to the Company a location selected upon equitable principles and in accordance with the Spirit of Sir George Murray's despatch, a Surveyor from this Government and one appointed by Sir Edward Parry had been directed to trace the dividing range on the left bank of Peel's River with the view of making that ridge and the river the boundaries of the Company's location in that Quarter. For further information on this point, I beg leave to refer your Lordship to the Despatch and the Map which accompanied it.

The Survey thus directed having been completed, I received from Sir Edward Parry the letter marked A of the 22nd December last, together with a Map of which I transmit a Tracing. This letter, as Your Lordship may perceive, contains a proposal to take up a location on Peel's River, confined by Boundaries even more arbitrary and objectionable than the first. To this arrangement, I was compelled to give a refusal; but I offered a Location on the left bank alone with one on Liverpool Plains, selected from the Ridge down the streams to make up the required quantity. The reasons, which induced me to object to Sir Edward's proposals are to be found in the Colonial Secretary's letter of the 31st January last, and the Surveyor General's of the 22nd of that month, both marked B and transmitted herewith. Sir Edward Parry, having declined to accept of my offer, has requested that the case may be submitted for the decision of His Majesty's Government.

In the enclosure of Sir Edward Parry's letter of the 11th March last, marked C, are to be found the reasons which he urges in opposition to those of the Surveyor General. Upon these, I need make no further remark than to express my belief that the latter is warranted in asserting that no more than one seventh of good land is to be found in locations of the size, formerly granted in this Colony and now directed to be sold by His Majesty's Instructions. Such at least is the general impression of those with whom I have conversed on the subject; and it is beyond all doubt that, in assigning to the Company the tract in question with two thirds of good land, they will be provided with a location, which will not fail to attract the admiration and excite the jealousy of less fortunate Colonists.

1833.
6 May.

Refusal to
grant locations
requested by
Sir E. Parry.

Location
proposed by
R. Bourke.

Refusal of
location
proposed by
Sir E. Parry.

Reply by
Sir E. Parry
to remarks by
T. L. Mitchell.

1833.
6 May.

Probability of
exclusion of
land from
settlement.

With respect to the unauthorized possession of large tracts, which it is asserted by the Surveyor General the Company would obtain, but which the Commissioner disclaims, it is certain that it would necessarily follow the occupation of locations defined in the manner proposed by Sir Edward Parry. I am quite ready to admit that neither the Company nor their Commissioner are desirous of obtaining the use of more land than may be granted to them, nor to exclude others from the benefit of ranging over vacant lands near them; but can Sir Edward Parry answer for the views and conduct of Persons, to whom the Company may lease or grant their lands, or is it to be supposed that the same usurpation will not be exercised by those placed on the Company's possessions, which is so notoriously resorted to by other Colonists, whose lands are circumstanced in a manner similar to that proposed for the Company by the Commissioner? The occupation of the Water by the Company would necessarily remove the Herds and Flocks of others from their vicinity.

Location
proposed on
Peel river.

Upon the whole, I would strongly advise that the Company be recommended to take their land in one location on both sides of Peel's River, as pointed out in the Colonial Secretary's letter of the 31st January last.

Explanation by
Sir E. Parry.

For the satisfaction of Sir Edward Parry, I have the honor to submit one other enclosure marked D. It is an explanation of some remarks, made by him on the conduct of the Surveyor General of this Colony, of which I thought it necessary some notice should be taken. The Remarks and the notice, I desired to be taken of them, are contained in the enclosure to my despatch of the 27th September last, No. 88, hereinbefore referred to.

Criticism of
Sir E. Parry.

I would now merely observe that I give entire credit to the purity of Sir Edward Parry's motives and the honesty of his intentions in endeavoring to obtain the most favorable conditions for the Company who employ him; but I cannot understand why he should not allow motives as honorable to actuate the conduct of the Surveyor General in his anxiety to protect the property of the Crown, whose Servant he is, and to defend the Interests of the Colonists from whose Funds he is supported.

With respect to the two last paragraphs in Sir Edward Parry's letter of the 11th March last, I beg leave to state that I will pay every attention to the wants of the Company whilst the question now detailed is pending, and that I have reason to hope I have lately adjusted the Company's claim at New Castle to the satisfaction of the Commissioner.

I have, &c.,

RICHD. BOURKE.

[Enclosure marked A.]

1833.
6 May.

SIR EDWARD PARRY TO COLONIAL SECRETARY MACLEAY.

Sir, Port Stephens, 22nd December, 1832.

Paragraph 1st. Mr. Dangar having completed the Map of his recent Survey made in conjunction with Mr. White, Government Surveyor, of that portion of Land which is included between Peel's River and the dividing Range to the South Westward of it for the purpose of ascertaining the precise position of the Range and of the River respectively and the real quality of the land enclosed by those boundaries;

Examination of country between Peel river and range.

2nd. I have now the honor to transmit to you herewith for the information of His Excellency the Governor a Sketch of Mr. Dangar's Map; and, with reference to my former communications on this subject, I beg leave to Submit for His Excellency's consideration the following observations and Proposals.

3rd. The whole Area proposed by His Excellency as one location of the two intended to be granted to the Australian Agricultural Company, as shewn by the *Red* boundary line A B C D, has been ascertained to consist of (481,456) Four hundred and eighty one thousand four hundred and fifty six Acres reckoning to the summit of the Range.

Area proposed by R. Bourke.

4th. Of this Tract, The Portion bounded by a *Yellow* line consisting of about (100,000) One hundred thousand Acres is wholly without a Stream of Water, and on that account a mere waste. The *Yellow* line is drawn at the distance of Four miles from the permanent Streams.

Report on proposed area.

5th. The Tract bounded by a *Blue* line, amounting to (40,960) Forty thousand nine hundred and Sixty Acres, is in some parts mountainous, in others Rocky with very small intervals of tolerable land.

6th. The Portion C D G H amounting to (29,747) Twenty nine thousand Seven hundred and forty Seven Acres contains two thirds or 19,831 Acres of land which, from its rough character, is of no value for any purpose.

7th. In addition to the above, there are (10,240) Ten thousand two hundred and forty Acres of precipitous and therefore useless land immediately bordering on the Range.

8th. Thus it appears that from the various causes above mentioned (171,031) One hundred and Seventy one thousand and thirty one acres, being considerably more than One third of the whole proposed tract A B C D, is of little or no value.

9th. This proportion of unavailable land being much greater than I should be justified in consenting to receive as one of the two locations intended to be granted to the Company. I beg leave to propose as follows.

10th. That a Magnetic North line E F be drawn as the Western boundary of the proposed location from a remarkable pointed Hill in the Dividing range (about a Mile to the Eastward of "Durii" which is *not* in the Range); and that the Rough tract C D G H be altogether excluded; thus making the proposed location E F G H to include (348,345) Three hundred and forty eight thousand three hundred and forty five Acres, of which (89,280) Eighty nine thousand two hundred and eighty acres, or more than One fourth of the whole, will still consist of unavailable land as above described; namely of the *Yellow* portion 40,960 Acres, the *Blue* Tract also 40,960 acres and 7,360 Acres of the precipitous sides of the Range.

Boundaries proposed by Sir E. Parry.

1833.

6 May.

Land on right
bank of Peel
river.

11th. The Land on the opposite or right bank of Peel's River having been ascertained to be a still narrower strip than was before supposed and nothing having been discovered worthy of Notice to the North Eastward, though the Surveyors pursued their way up the Valley of Cockburn's River (the only opening in that direction) for about thirty miles, it is not in my power to propose any addition to this location on that Bank of Peel's River.

12th. Should the Governor accede to the above proposal, in which it has been my anxious endeavour to conform as far as possible to His Excellency's wish of making the Range a Boundary, there will remain to be selected for the Company a Second location consisting of (193,735) One hundred and ninety three thousand Seven hundred and thirty five Acres.

Location
proposed at
Liverpool
plains.

13th. This Second location it is still my wish to take for the Company, as shewn by the Green shading in Mr. Dangar's former Map, accompanying my letter addressed to you on the 5th of May last. And, as by your letter* of the 27th of July, His Excellency intimated his readiness to grant the required quantity of Land, or more, on or near Liverpool Plains, if selected in a particular manner, I have only respectfully to request that His Excellency will be pleased to propose to me some other situation and shape, if he still objects to the Selection I made.

14th. As Mr. Dangar is now unoccupied and is retained in the Company's Service at a heavy expence solely for the purpose of assisting in the Settlement of their Grants, I take the liberty of requesting as early an answer as the Public Service will allow, as well to this communication as to my application of the 18th October last for the decision of the Company's Coal Grant at Newcastle.

I have, &c.,

E. W. PARRY.

Commissioner for Managing the Affairs of
the A.A. Company in New South Wales.

[Enclosure marked B.]

[1] SURVEYOR-GENERAL MITCHELL TO COLONIAL SECRETARY
MACLEAY.

Sir, Surveyor General's Office, 22 January, 1833.

Letter
acknowledged.

I have to acknowledge the receipt of your letter No. 33/62 dated 15th Instant, enclosing a letter from Sir Edward Parry, on which by direction of His Excellency the Governor you request my report, the same having reference to a plan by Dangar, which I have also received, and which is herewith returned as well as Mr. Dangar's former Map.

Denial by
T. L. Mitchell
of want of
water.

I have therefore the honor to refer to the 4th Paragraph of that Letter, which contains the first objection to the land on the Peel, namely that the tract distinguished in Dangar's Map by a Yellow boundary and containing One hundred thousand Acres is wholly without a Stream of Water, and on that account a mere waste, and to observe that, although there may be no Streams, Water holes are not wanting as one proof of which I beg to state that I encamped in the very centre of it, at a place where there was Water in abundance on the night on which I left my party on the bank of the Peel last Autumn, having also found water on another part where I had encamped with my party two months before; and it may be added that one half of this land is included in Sir Edward Parry's first selection on the Peel. It is bounded by bold Hills on

one side and a fine River on the other so that no part of this ground is distant above six miles from one of these; the whole affords good pasturage, and would be not less available to the Company if divided from the Company's grant by the imaginary line E F as proposed, than if it were included therein. For the triangular portion, which would be separated therefrom by this line, is enclosed on the two other sides by such impassable barriers, Viz., the mountain range on the South West, and the River Peel on the North or towards the unlocated interior, that it would in fact only be entered by the side of the Company's Grant, and thus this fine tract containing about One hundred thousand acres would be as much in the possession of a Company possessing three hundred and forty eight thousand Acres adjoining, from which it would be separated only by a magnetic North line (E F) as if it formed part and parcel of the granted land. The tract bounded by a Blue line (Paragraph 5) is objected to as being in some parts mountainous, in others Rocky, with very small intervals of tolerable land; but, in a large tract, such inequalities are necessary to supply the Streams; a dead flat would be without water, and upon the whole this, even as Mr. Dangar marks it, appears to be a remarkably small proportion, as it forms an intermediate basin which retains the waters between the Peel and the boundary range.

1833.
6 May.

Necessity for hills for water supply.

The portion C D G H (Paragraph 6th), of which two thirds are stated to be of no value from the rough character, I have not seen; but, from the Admission that *One* third is otherwise, I conclude that it partakes of the general character of the Vallies of the Liverpool range so much desired for the other location proposed at the head of Liverpool Plains by Sir Edward Parry, and which, not only from the proportion of good, Viz., *One* third, but from the abundant pasture and unfailing Springs of that higher region, would probably be now occupied by the Colonists, were it accessible to them at all, since to occupy such parts somewhat nearer, they leave their locations and cross a lofty range; whether the Company would virtually occupy this, while holding the land adjacent to it, admits of no question.

Area described as rough.

That land bordering on a range and being precipitous is therefore useless for Sheep farming (as stated in Paragraph 7th) does not appear to follow, for the Steep sides of the range are in general well clothed with grass, and I believe in certain seasons such Mountain pasturage is desirable, if not absolutely necessary on extensive Sheep walks.

Value of mountain pasture for sheep.

In paragraph 8th, it is set forth that such objectionable parts, as they are at least represented to be by Sir Edward Parry (or Mr. Dangar), amount to considerably more than *One* third of the whole proposed tract A B C D. I have already observed that *One* third of good land is a great proportion, because I consider the average proportion of good or available land in the whole Colony is about *One Seventh*, and in ordinary sized Grants will be frequently found a still smaller proportion even of good grazing land. I say *One Seventh* because my predecessor in this Office thought the proportion of good still less; and, having since ascertained the whole extent of the Colony, I find that the granted land bears about this proportion to the waste land, of which it was not for some years past in my power to point out to Emigrants a four Section grant of average quality within the present limits of the Colony.

Average proportion of good land in colony.

1833.

6 May.

Criticism of
location
proposed by
Sir E. Parry.

It is admitted that two thirds of the extensive tract on the Peel offered to the Company are good or unobjectionable, and in Paragraph 9th Sir Edward Parry states that, with such a proportion of unavailable land as *one third*, he cannot consent to receive it, as one of the Two locations intended to be granted to the Company. He therefore still proposes to cut off by an imaginary line E F the triangular tract I have already alluded to, a portion confined on other sides by the continuation of the strong natural boundaries of the proposed grant, to where they meet, and enclose the whole on the North West. He also proposes to exclude by another Ideal line the tract C D G H, which is similarly situated at the opposite or South Eastern extremity of the proposed location, thus making it to contain Three hundred and forty eight thousand, three hundred and forty acres only, although it would really include within the natural limits by Dangar's calculation four hundred and seventy eight thousand acres. I would do myself the honor to observe that I see no reason whatever for leaving at each extremity of a tract, enclosed by such boundaries, so much land in the unauthorised possession of the Company, especially considering the extensive survey which Government has found it necessary to make for the purpose of determining natural limits. The tract now proposed to be taken by Sir Edward Parry is scarcely at all different from his former selection on the Peel, as shewn in his first chart, the only difference being in the Quantity, which was Three hundred thousand, One hundred and Sixty Acres; the situation is almost precisely the same.

The difference between the whole extent of the Land on the Peel as enclosed by the Range and River, Viz., Four hundred and seventy eight thousand Acres, and what would remain to be selected, as stated by Sir Edward Parry, would be about Sixty four thousand Acres or one hundred Square Miles. It is therefore to be regretted that Sir Edward Parry cannot be persuaded to take this land on the Right bank of the Peel, for, according to Mr. White's report as well as Mr. Oxley's Journal, the Valley of the Cockburn is good, and there can be little doubt that One hundred Square Miles at least of unexceptionable land may be found; the Plains of Mullaba on the other side of the Peel, and part of which I traversed, are at least as good as Liverpool Plains; but there possession is not necessary to ensure it to the Company as far Northward as they chuse to go, or Eastward even to their Grant on the Coast, while it is desired to extend their exclusive possession to the Western limits of Liverpool Plains, where it would be available for the exclusion of the Colonists; and, if a Tract can be shewn equally good, where the interests of the Company and those of the Colony would not clash, it seems most desirable on principles of common Justice to arrange the locations accordingly. It is not only by the occupation of a great portion of what has been hitherto available to the Colonists that their interests would be affected; the occupation of the two best watered tracts would leave the intervening Country comparatively unavailable. On the other hand for the ostensible objects of the Company, the One situation is as eligible as the other; the intrinsic value of the land nearest to the Settlers might be greatest; but, all other circumstances being equal, the deterioration in value of a still greater extent left waste on the hands of Government, and the wants of the Colonists on whose numbers and wealth the actual value depends, appear entitled

to consideration. Adhering to the principle of natural boundaries for such large tracts, and admitting that the left bank of the Peel is an eligible tract of this kind, the adjacent Country of Liverpool Plains may be considered another tract of much greater extent, having also its limits very well defined, Viz., The Liverpool Range on the South, The Boonalla Range on the West, the Mulnerindie (or Peel) on the North, and the Range bounding the Upper Peel tract on the East. The Conadilly divides it, and, taking this River as a Western boundary, it would confine a tract of twice the extent of all the land to be selected in two locations by the Company. The Colonists by the occupation of the land give it a value, and therefore Sir Edward Parry, to whom land unoccupied and as good for Sheep has been offered in another situation, would prefer this, for no other reason that I am aware of than because it is occupied. Whether it was contemplated by His Majesty's Government in granting to a Company large tracts in New South Wales for the growth of Wool that room could be found there for the Company and the Colonists too, or not, I shall not presume to offer an opinion; but, if the One hundred Square Miles only, which still remains to be selected, are to be allowed on Liverpool Plains, I would beg to suggest that this land should be taken at the Western part of the former large selection there, and between natural limits so as to leave unequivocally open the whole space between that selection and the other on the Peel, with free access for the Colonists to the intervening Plains and the interior.

I would also have the honor to suggest that, in granting the land on Peel's River, the right may be reserved of making as many roads as may be necessary to the Country beyond the Peel, and free passage to the Public along those which may be made, or across the Country before Roads are made, also the right of carrying Great Roads across any portion which may be granted on the West side of Liverpool Plains.

I have, &c.,

T. L. MITCHELL, Sur. Gl.

[2] COLONIAL SECRETARY MACLEAY TO SIR EDWARD PARRY.

(No. 33/72.)

Colonial Secretary's Office,

Sydney, 31 January, 1833.

Sir,

I duly received and submitted to the Governor Your Letter of the 22nd ultimo, No. 764, transmitting Mr. Dangar's Sketch of the recent Survey, made in conjunction with the Government, of the Land on Peel's River proposed for the Australian Agricultural Company, and preferring observations and proposals for determining the Company's Selections.

With reference thereto, I am directed by His Excellency to inform you that the reasons given by the Surveyor General, in the Enclosed Extract from his report on the subject, for adhering to the Natural Boundaries before proposed by this Government for the Company's Location on Peel's River, are too cogent to allow of His adopting the modification suggested by you. His Excellency therefore recommends your taking on the right bank of the River what is wanting to complete the whole quantity; by which you will secure a compact location along both sides of a noble River, with the best possible boundaries and the probability of direct communication with Port Stephens; and, if you are disposed to do so, His Excellency will endeavour to accommodate the Company by allowing a very full and favorable Selection on the right bank.

1833.
6 May.

Description
of Liverpool
plains.

Proposed
location on
Liverpool
plains.

Necessity for
right to make
roads through
company's
grants.

Letter
acknowledged.

Refusal to
accept
proposals of
Sir E. Parry.

Location
proposed by
R. Bourke.

1833.
6 May.
Alternative
location on
Liverpool
plains.

Should you, however, decline this proposal, the Governor has no objection to give you a location on Liverpool Plains, if taken upon the principle that has been already suggested, viz., from the dividing range downwards along the streams, leaving perfectly open to the Colonists all the space between it, and the Location on the Peel, reserving therein to the Government the right of making as many roads as may be necessary to the Country beyond the Peel, and free passage to the Public along those which may be made, or across the Country before roads are made, as well as the right of carrying great Roads across any portion which may be granted on the West side of the Liverpool Plains.

I have, &c.

ALEX. MCLEAY.

[Enclosure marked C.]

SIR EDWARD PARRY TO COLONIAL SECRETARY MACLEAY.

Sir, Port Stephens, 11th March, 1833.

Letter
acknowledged.

Paragraph 1st. I do myself the honor to acknowledge the receipt of your Letter of the 31st January last, acquainting me by the Governor's Commands that His Excellency declines acceding to the proposals Contained in my Letter addressed to you on the 22nd December last, and also Communicating to me His Excellency's Recommendation that I should take for the Australian Agricultural Company, on and near Peel's River, what is wanting to complete their whole Quantity of Land.

Refusal to
accept
locations
proposed by
R. Bourke.

2nd. I regret that it will not be in my power to adopt His Excellency's Recommendation in this respect, for the reasons already very fully detailed in my former communications, some of which reasons are again stated in the Enclosure to this Letter.

3rd. It is also a Matter of sincere regret to me that I can not consent to the second of His Excellency's Proposals, and this for the following reasons; If I could conscientiously consent to take the whole Tract (A B C D) of 481,456 Acres on the left Bank of the Peel, as one Location, there would remain only about 60,000 acres to Select elsewhere.

If even these Sixty thousand acres were to be all good, or at least available Land, it would become a question whether so small a portion of the Company's whole grant would be worth the expense of forming a third and very distant Establishment. But to this consideration must be added the important fact, well known to any person acquainted with the nature of that Country, that, if these 60,000 acres were selected in the Manner His Excellency proposes, namely "from the Dividing Range downwards along the streams" towards Liverpool Plains, fully *one half* of any such Tract would be *utterly useless*. Whatever appearance, therefore, such an arrangement might make on paper, His Excellency will, I trust, perceive that I cannot accede to a proposal, which, if adopted, would in fact amount to a mere nominal possession of two new Locations.

Indeed I cannot persuade myself that the granting of so small a portion of Land to constitute a third Location, separated 40 miles from the other, is in accordance with the spirit of the intention of His Majesty's Home Government in Granting to this Company the indulgence of making two fresh Selections.

4th. Your Letter having informed me that the Governor's refusal to comply with my request is grounded on the reasons given by the Surveyor General in the Extract from that Officer's communication

which you have enclosed for my information, it has become my duty to offer some Remarks thereupon. To these which form a part of the Enclosure to the present communication, I respectfully solicit the Governor's attention, and, through His Excellency, that of His Majesty's Home Government.

1833.
6 May.

5th. Anxious as I am to bring this Matter to a Conclusion, I cannot, for the reasons now fully stated in my various Communications to His Majesty's Government, Consent to betray my trust by accepting for the Company a Grant in which the quality of the Land and a Supply of Water are, in my opinion, made to Yield, as Matters of Comparatively light Moment, to the convenience of adopting certain natural Boundaries, the acceptance of which Grant would, therefore according to my Judgment, be committing a Second error, similar to that which had nearly involved the Company in ruin at the outset.

Reasons for refusal to accept proposed location.

6th. Having given to this important Subject the most mature consideration, it appears to me that His Majesty's Local Government having virtually declined allowing me to select the Lands required to complete the Company's Grant, I have no power to proceed any further, and shall, therefore, not be justified in incurring more expense on the Selections now refused. Much less can I venture to Commence afresh by exploring some still more distant parts of the Colony, or rather out of the Colony, under the apprehension which I cannot but entertain that any fresh Selection might be met by a Similar refusal.

Refusal to search for further locations.

7th. I have, therefore, respectfully to request that His Excellency will be pleased to transmit to His Majesty's Secretary of State for the Colonies, Copies of the several Communications I have had the Honor to make to His Majesty's Local Government on this Subject. And, in Compliance with the tenor of Lord Goderich's Letter to His Excellency, dated the 3rd of March, 1832, I beg to acquaint you that I am about to transmit to the Directors of the Company Copies of the same Communications for the purpose of enabling them to address His Majesty's Home Government on this question.

Request for reference to secretary of state;

8th. As under these Circumstances the prospect appears a distant one of any final Settlement of this question, I would also respectfully request that His Excellency will be pleased to grant to the Company, during this interval, temporary occupation of such further portions of Land near Liverpool Plains as may from time to time be absolutely necessary for the Support of their encreasing and valuable Flocks.

and for temporary occupation of grazing lands.

9th. And as I have given Mr. Dangar notice of my intention to discharge him almost immediately from the Company's Service, I trust His Excellency will be pleased to direct that the Company's Grant at Newcastle be decided on and finally marked out without delay in the situation requested by my Letter addressed to you on the 18th of October last, to which I have not yet received a Reply.

I have, &c.,

E. W. PARRY,

Commissioner for Managing the Affairs of the
Australian Agricultural Company in New South Wales.

[Sub-enclosure.]

[In this enclosure the second, third, fourth, fifth and sixth paragraphs of sureyor-general Mitchell's letter, dated 22nd January, 1833, were quoted; see page 106 et seq.]

1833.
6 May.

SIR EDWARD PARRY'S Remarks on the Observations on the
Opposite Page.

[Remarks on the second paragraph.]

Criticism by
Sir E. Parry
of letter from
T. L. Mitchell.

It is true that there are, at some seasons, Water holes in the Extensive Tract of Land here alluded to, but they are only such as must be dried up during the Summer Months. The autumnal rains had commenced at the latter period mentioned by the Surveyor General, namely in March, 1832, and the expression of having "found Water" two Months before implies the difficulty which there really was in finding it. If any portion of this Tract of one hundred Thousand acres *could* be advantageously Occupied by Stock during Some part of the Year, they must at least be removed every Summer.

It follows that, even in this most favorable Supposition, this tract is virtually a mere waste as I described it. No man would be unwise enough to form Sheep Stations on such a Tract.

It is true that I included a very considerable proportion of this Land in my first Selection, because I never have been so unreasonable as to expect that I could Select the whole quantity good; and I therefore consented to include this very large portion of Waste Land. But this is a Strange Argument to use, as it here seems to be used against the Company's Claims.

[Remarks on the third paragraph.]

THE distance of Six Miles from Peel's River is too great by at least two Miles, or one third of the whole, for Stock to feed from the Water. This Circumstance, therefore, is nothing in favor of the Tract. What advantage the Surveyor General expects the Company to derive from the fact that "no part of this ground is distant above Six Miles from the bold Hills on one side," I am quite at a loss to conceive.

I appeal to the Maps of the Colony, and to the experience of the Settlers generally, whether this reasoning will not equally apply to any other unappropriated Land in New South Wales. On three fourths of the Grants on the Hunter River, for instance, the Proprietors enjoy the advantage of what is called a "back run" for their Cattle, etc., namely, Land not appropriated, nor ever likely to be appropriated, as separate Farms, *being only useful in connection with the Neighbouring Estates*, which latter must in a multitude of instances be passed through to arrive at the unappropriated Land.

But the Company desire no such advantage; and I particularly Solicit the attention of His Majesty's Government to the following observations:—If these one Hundred Thousand Acres do really constitute so very desirable a Tract, what is to prevent its being occupied by other Colonists. The Surveyor General says, because "it could in fact only be entered by the side of the Company's Grant." If Major Mitchell has occasion to go to Port Macquarie by land or to visit the Grants on the Manning River, he would have to ride some fifty miles through the Company's present Grant; And why not, has the Company ever objected, or, if they did, would the objection be held valid for one Moment to Roads being made and frequented through their Grants in Any direction necessary to the Public Convenience. The objection raised by the Surveyor General in this head might indeed startle an English Gentleman, through

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6 May.

Criticism by
Sir E. Parry
of letter from
T. L. Mitchell.

whose Park or Game reserve a Public Road was about to be made; but in this Country such an objection is never thought of, and it must be a weak cause that in New South Wales requires such an objection to Support it.

If I understand these remarks aright, they amount to an admission that the Tract in question is, as I described it, little better than waste Land. It is true that it is only a "Small proportion" of the whole; but I only described it of its proper extent. The facts that "inequalities are necessary to supply Streams, and that a dead flat would be without water" are truisms which Cannot be denied, but they have nothing to do with the one only essential fact that the Tract in question is principally bad.

[Remarks on the fourth paragraph.]

THE theoretical "Conclusion," in which the Surveyor General has here ventured, is erroneous. I, who *have* seen the portion of Land in question, know that it is not of the description "So much desired" by me elsewhere.

The Surveyor General's assertion that it probably is so seems to convey rather an insulting insinuation.

If however this Tract be really so desirable to the Colonists as is here represented, it will most certainly be occupied by them whenever Colonization naturally extends so far. The Company know to their Cost that their Neighbourhood is more sought after than is consistent with their interests, and with respect to Roads, see my Remarks above on this Subject.

[Remarks on the fifth paragraph.]

THIS question appears to turn on the meaning of the word "precipitous." My meaning was, hills too steep for Sheep or Shepherds to climb without difficulty, *which is the Case generally with the Hills to which I alluded.*

[Remarks on the sixth paragraph.]

THIS is a very fallacious, and therefore a very unfair point of view to put it in. The question is, *not* what is "the average of good or unavailable Land in the whole Colony," but what is the average of good or available Land in the *Tracts Appropriated to the usual order of Grants in the Colony.* There are Tracts of immense extent in New South Wales not worth one farthing, but nobody has ever thought of including these in any Grants at all; I claim, then, for the Company, only the usual *method* of giving Grants, that is, the usual proportion of good to bad Land in the Grants of the Colony generally, and every Surveyor who knows the Colony is aware that, had the question been put in this, the only fair point of view, and the Hunter River District for instance taken as a guide, the proportion of bad Land would not be found to exceed *one Eighth* instead of *Six Sevenths*, as the Surveyor General's observations appear to intimate; I earnestly request the attention of His Majesty's Government to the fallacy, which is at least implied, in the Surveyor General's Statement on this most important part of the Subject.

I have before admitted that Strong natural boundaries are extremely desirable to all parties; but if One Hundred Thousand Acres in one place and half as much in another are to be sacrificed to this consideration, it would be purchasing boundaries much too dearly.

1833.
6 May.

Criticism by
Sir E. Parry
of letter from
T. L. Mitchell.

The insinuation, that the Company or I, as their Agent, desire to have "unauthorized possession" of any portion of Land merits no reply on my part.

The real facts respecting Surveys are these. The Company has been engaged for three Years, at an expense considerably exceeding Two thousand Pounds, in endeavouring to complete their Grant, extending their researches even beyond the proclaimed limits of the Colony for this purpose. Their Selection is refused, and the expense, therefore, probably in great part thrown away. His Majesty's Government has made one survey, occupying a Surveyor from four to five Months, embracing some material points, calculated (as His Excellency justly observed) to be of great service to the Geography of the Colony, even independently of the question relative to the Company's Lands. Is it any thing new or unreasonable that the Government should Survey Lands proposed to be granted.

Indeed can Lands be sold or granted without a Government Survey, and yet the Surveyor General speaks of this Survey as some great and unusual boon conferred upon the Company.

I respectfully solicit the attention of His Majesty's Government to this instance, among many others, of the want of candour which characterizes the Surveyor General's Statements in opposition to the Company's just Claims.

I have, &c.,

E. W. PARRY,

Commissioner to the A.A. Coy.

Port Stephens, 11 March, 1833.

[Enclosure marked D.]

SIR EDWARD PARRY TO COLONIAL SECRETARY MACLEAY.

Sir,

Port Stephens, 11th March, 1833.

Having by Letter of this Day's date communicated to you my request that the Governor will be pleased to transmit to His Majesty's Secretary of State for the Colonies copies of the various documents relative to the unlocated Lands, which His Excellency has declined allowing me to select for the Australian Agricultural Company,

I feel called upon to endeavour to exculpate myself in the eyes of the Governor and of His Majesty's Home Government from the charge of "Commenting with uncalled for asperity on the conduct of the Surveyor General in this business," and to express my deep regret at the reproof which His Excellency has been pleased to convey to me on this account in your letter* of the 27th of July last.

Upon this subject, I would beg leave to observe that no man can detest and deprecate more than I do those licentious expressions of republicanism, and that indiscriminate and unmerited abuse of the officers of Government, tending to subvert all Government in Church and State which are unhappily too prevalent in these times and in this Colony. I trust I may be permitted to say that my disposition and the habits of a life spent chiefly in the service of the King make me equally averse to such expressions of disloyalty and misrule under the specious garb of Public Spirit. But, Sir, when an Officer of His Majesty's Government behaves in a matter, which seriously and deeply concerns me, as I believe the Surveyor General has in this instance behaved, I would respectfully appeal to His Excellency whether, in such a case, remonstrance is to be

Reply to
criticism of
remarks by
Sir E. Parry re
T. L. Mitchell.

* Note 15.

denied me; whether I am silently to submit to that entire want of Candour and consideration for the Company's claims which, as I conceive, so glaringly appears in that officer's conduct and Statements on this occasion. I cannot believe that His Excellency would thus wish to exclude me from what I understand to be the common right of the meanest British Subject, who feels himself aggrieved and injured. That I on behalf of the Company have thus been aggrieved and injured, and that I have thus a just cause of serious complaint, I conceive that I have fully shown. I consider that I have proved the arguments of the Surveyor General to be in some cases frivolous, in others fallacious; that they abound in theory, where practice alone can be a safe and fair guide; that they substitute speculation for experience and fact; and that they are not always in accordance with ordinary usage but in many very essential points directly opposed to that usage. I have likewise shewn that all this opposition arose from a predetermination on the part of the Surveyor General to oppose any selection I might make, that predetermination having been expressed in the strongest and most unwarrantable terms long before I had even seen the land which I have since selected.

These, Sir, are the facts on which I grounded my remonstrance to the Governor. If in making that remonstrance I was so unfortunate as to express myself in a manner, which could be construed into the most distant appearance of want of respect to His Excellency, most heartily do I regret it, and most earnestly do I disavow any such intention. But to the Surveyor General I am not aware that I owe any such respect, much less any such apology; and I therefore once more most respectfully appeal to the Governor and through His Excellency to His Majesty's Secretary of State against a decision based on the Arguments of which I complain, and coming from an Officer so prejudiced as the Surveyor General.

I have, &c.,
E. W. PARRY.

GOVERNOR BOURKE TO VISCOUNT GODERICH.

(Despatch No. 45, per ship Clyde; acknowledged by right hon. E. G. Stanley, 7th November, 1833.)

My Lord, Government House, 10 May, 1833.

10 May.

In forwarding to your Lordship a Memorial from Assistant Surveyor Kentish with my Despatch of 3rd Novr., 1832, No. 117, I had occasion to remark upon his extraordinary conduct, and to express my intention of removing him from the Surveyor General's Department on the first opportunity. I regret to state that Mr. Kentish has since compelled me to remove him by addressing to me and to the Surveyor General the very improper letters, of which Copies are herewith transmitted.

Dismissal of
N. L. Kentish.

As Mr. Kentish came out from England to hold his appointment, and has a Wife and Family, I propose to allow him a sum not exceeding one year's Salary to enable him to return, if he should be so disposed.

Allowance
for return to
England.

1833.
6 May.

Reply to
criticism of
remarks by
Sir E. Parry re
T. L. Mitchell.

1833.
10 May.

Proposal for
filling vacancy.

If it should be necessary to fill up the vacancy occasioned by this dismissal, I would propose, in conformity to the intention expressed in my Despatch of the 4th January, 1833, No. 4, to appoint for the Roads a Person now in the Colony, who has been employed under McAdam in England and whose Salary will not exceed £120 per annum.

I have, &c.,

RICHD. BOURKE.

[Enclosure.]

MR. N. L. KENTISH TO GOVERNOR BOURKE.

Sir,

Parramatta, 8 April, 1833.

Transmission of
correspondence.

I feel it my duty to submit to your Excellency the annexed correspondence, and to crave your interposition.

My observations in reply to Major Mitchell, I perceive on re-copying my letter, are strong but they are also *just* and *not* uncalled for. I therefore hope Your Excellency will justify me in the opinion that, under feelings of honest indignation, it is more honorable and manly to address them direct to him, than to make them matter of Complaint without doing so. I would entreat Your Excellency, if you should travel upon the Liverpool Road, *to Judge for yourself*, and by the testimony of the Neighbouring Magistrates and Gentlemen and Liverpool Coachmen, to ascertain whether Overseer Ellis's Men are not kept stricter and closer to their duty, and do not perform more work and better than any other Gang of Prisoners in the Colony, which is matter of notoriety and general remark; also whether the new line of Menangle Road (which I laid out exclusively myself) is not the best line that could have been formed and greatly approved of by the Public.

Defence by
N. L. Kentish.

With regard to firewood, I should observe to Your Excellency that the Carts from Ellis's Gang *are obliged to come* to Parramatta upon an average two or three times a Month; that in the Bush through which they *must pass* there are thousands of Loads of Wood laying on the Ground almost intercepting the Cart tract; *that it is and ever has been the practice* from the Institution of a Road Department for the Carts upon these opportunities to bring firewood to the very Overseers and Convicts themselves, and certainly to the Officer in charge of them; that the Carts, in charge of Mr. Simpson of Parramatta and of every other Assistant Surveyor of Roads, bring him and them firewood as often as required. I therefore hope and respectfully request that Your Excellency will be pleased to countermand the Order of the Surveyor General to my Overseer, and the Prisoners in his Gang, and to protect me from the unmerited censure, and continued persecution of my Superior in Office.

Practise *re*
firewood.

I have, &c.,

NAT LIPSCOMB KENTISH.

Request for
protection of
governor.

[Sub-enclosure No. 1.]

SURVEYOR-GENERAL MITCHELL TO ASSIST. SURVEYOR KENTISH.

(No. 33/8.)

Sir, Surveyor General's Office, Sydney, 2nd April, 1833.

Instructions to
N. L. Kentish
re Liverpool-
road.

The Road to Liverpool from Sydney Eastward, some miles from Bowlers Bridge, was during last Winter in a very bad state, and it will be as bad this Season unless it is immediately attended to. I request you will therefore place Ellis's Gang upon this part

to form it properly and metal it, breaking for this purpose the Stone which is to be found on a Hill near the Dog trap, and which is of a very good description. Until I can strengthen Ellis's Gang sufficiently to form two parties, it will be necessary to leave a man in the present Huts near Jackson's to take care of them, and to be occupied filling up any holes which may be made in the Road in that Neighbourhood, etc. Having found the party under Assistant Overseer Greenfield standing idle to a Man, when I visited the Quarry where they ought to have been at work, I told Greenfield that I should discontinue him as an assistant on pay; you will therefore apprise him that he is to be discontinued from the End of the present Month. I find that the printed extract from the Regulations ordered to be put up at the station of each party has not been so affixed in Ellis's Gang, and I request you will explain why this has not been done. On remarking that little had been done to the Road from the time I had been there before, I enquired and learnt that you had not visited that party for upwards of two weeks. On this point, I request also that you will report.

I am also desirous to know by what authority you have opened and are now forming with Lahiff's Gang a new Road to Menangle ford, different from the line which had been previously cleared to the full width.

I have, &c.,

T. L. MITCHELL, S. G.

[Sub-enclosure No. 2.]

ASSIST. SURVEYOR KENTISH TO SURVEYOR-GENERAL MITCHELL.

Sir,

Parramatta, 6th April, 1833.

I have the honor to reply to your letter dated the 2nd Inst. received by last night's post.

I have personally given directions for the immediate removal of Ellis's Gang towards Bowlers Bridge according to your Instructions, and acquainted Greenfield that he will be discontinued as Deputy Overseer after the present Month.

I have received no Copies or Copy of any Printed Extract from the Regulations ordered to be put up at the Station of each Road Party, which is the reason that none has been exhibited to either of the Gangs in my charge. In your Circular of the 27th September last, transmitting the new Instructions, mention is made of the Document to which I presume you allude, which is directed to be *painted on a board*. Mention is also made of a Depot being formed in my District, supplied with Stores, Tools, etc., and provided with Sawyers and other Mechanics; also of a sort of Hospital, etc., etc., etc.; but, none of these *intended* Regulations having been carried into effect, I imagined that it was on this Account you neglected to issue the placard.

With regard to the "*little*" which you remarked had been done to the Road from the time you had been there before, and to your very severe rebuke to Overseer Ellis, I have to observe that but for certain circumstances, so unfounded a complaint, so unfounded a charge, and one so diametrically opposed to Justice, and to facts which are and *must* be *notorious* to all persons in the habit of travelling the Liverpool Road, could never have been made. You must, Sir, be well aware of this; out of the numerous and almost numberless Overseers and Road Gangs, which have been under my Superintendence the last two years and quarter, I never knew more than one Overseer (or at most two) worthy of the name or situation

1833.
10 May.

Instructions to
N. L. Kentish
re Liverpool-
road.

Report required
re road to
Menangle.

No printed
regulations
received.

Denial of
charges made by
T. L. Mitchell.

1833.
10 May.

Testimony
in favour
of Ellis.

and that one is *Ellis*; he is a Sober, Civil, Strict Overseer, and incomparably superior to any other within my knowledge; he has been nine years in that situation, and the last Six and a half on the Liverpool Road; he has upon an average got twice as much work done and more than twice as well as any other Overseer in the Colony, in *proof* of which and of his exemplary conduct (for this is *mere assertion* which would at once be overthrown by your mere contradiction), Major Lockyer, Captain Dumaresq, Colonel Dumaresq, Mr. Nicholson and other Gentlemen, to whom he and his services and merits were known, signed a Petition to the late Governor to obtain for him a Conditional Pardon; and a similar petition to General Bourke has been signed by Mr. Justice Stephen and the Liverpool Magistrates and other Gentlemen, to whom his character and long services are known. Sir, it is poor encouragement to Overseers, *who are vigilant* in the performance of their duties, or to your hapless Subaltern Officers, when most earnestly and *successfully striving* in the Public Service, to receive nothing from you but upbraidings and reprimand, when most entitled to expect commendation and encouragement. To such ungenerous return for Zealous exertions, I have been accustomed as long as I have been under your Orders, but that solely on my account; a most praiseworthy and exemplary Overseer under my charge, and entitled to my protection, should be damned and threatened to be dismissed from his situation, is more than I can tacitly endure. Sir, you know, or, if you do not, before you give vent to your Curses and Execrations you ought to have known, that since Christmas, when you last passed over the Liverpool Road, *Ellis' Gang*, which has not averaged above thirty working Men (and a part of them Cripples) with only five teams, some of but two bullocks each, has Quarried broke and Carted *Eleven hundred loads of Stones*, removed about five hundred loads of earth, and made about eight hundred Yards of Road not merely Stoning it, but taking out Stumps, filling large hollows, and forming a new bed, and *then* laying the stone upon it, which I have no hesitation in asserting is not only as much as but *twice as much* as any other Gang of the same strength or rather weakness in the Colony has done within the same period; besides all this new work, Ellis has in the last three months made repairs both in the bottom and to the hand rails of four or five bridges, and carted about 150 loads of Stones for the repair of holes in the worst part of the Road. As to the *manner* in which this work has been performed, it is open to ocular demonstration, and I have the satisfaction to know that there is not in England a better nor in any other part of this Colony half so good a Road as that of which you are pleased to complain, made by Ellis and the Prisoners under my Superintendence.

Reasons for
not visiting
gang.

In regard to my not having visited the Gang for a fortnight. I beg to observe that, since my correspondence with His Excellency the Governor and Lord Goderich, I have sold two of my horses, and the rides, I now take, are nearly as much as my one remaining horse is capable of performing; on or about the very day of your numerous complaints, I rode on horseback thirty miles or thereabouts on duty, as I had done the second day preceding, and ten the intervening day, and further on that very journey was Robbed and ill used by Four Bushrangers; this circumstance and a Summons to attend the Supreme Court may perhaps be sufficient reason for my visits not being quite so frequent; but the men *are* kept

in good order and the work is particularly well performed by the Gang of which you complain; and, in respect to it and the Road, I have done all that any man is capable of doing, and at least as much as any other Officer of the Road Department.

1833.
10 May.

In regard to the Menangle Road, I must for my authority for making the same refer you to your former letters of instructions in particular to my letter of the 3rd August last, requesting your directions relative to the Road between the ridge and Old Road which it crosses, West of Mr. Reddall's house, and the ford, and to your laconic reply of the 7th of the same month No. 32/68 stating only that "I was to open and render passable for carriages what is called *the New line*" of which that new piece forms a part which Lahiff has made under my directions from the ford. You must, I should presume, be aware from inspection that the Lands, which are in cultivation in the direction of the former cleared line, are after heavy rains flooded to the depth of very many feet, and from the nature of the Soil, as well as form of the Bank or Banks (one above the other) of the River, utterly unfit for a Road; the line I have laid out is not only the most easy that the ground would admit of and but slightly circuitous, but is by far the greater part of it on a bed of gravel; and I have had the satisfaction to receive great praise for laying it out as I have done from many Argyle Settlers and others, who have already travelled over it, as well as from Mr. Howe, Mr. Reddall and Gentlemen in the neighbourhood.

Road
constructed
to Menangle.

There is, Sir, yet another matter of Complaint, loud and Vehement Complaint, which, though not mentioned in your letter to me, I feel it my duty to mention to you, and not to you only but to His Excellency the Governor. Overseer Ellis told me a long while ago, soon after my Complaint to Lord Goderich of your treatment, that you had personally forbidden him to allow any firewood to be conveyed to me in the Bullock Carts upon occasion of their coming to Parramatta (otherwise *empty*) to fetch Forage, Stores, etc. With this which he said was your Order, I of course told Ellis to comply; but, after a while upon reflection, I greatly doubted whether you could really have given such an order, and began to think it was an invention of the Overseer or his Deputy (to whom your Orders were said to have been given more particularly) to save the Men the little trouble of filling the Carts, or rather to enable them to Sell the Wood instead of bringing it to my house. I, therefore, renewed my Orders to the Overseer and Bullock Drivers, when it was necessary to send a Cart to Parramatta, to bring me fire Wood as is usual with every Officer of the Department, observing that, if you had intended to countermand my Orders, you would as a Gentleman have done so in an official manner, and which common civility required, by a communication addressed to me and not by *Verbal Orders through* any of the *Prisoners* in my charge; and further, Sir, I was unwilling to believe that it was possible that you could be guilty of such meanness; that you could descend to such littleness as to attempt amongst other measures of annoyance to revenge yourself on me for complaining of your tyranny to the Home Government by depriving me of a small Privilege permitted to every other Officer of the Road Department; this you could not do without glaring Injustice, unless you gave the same order to all the other Officers; you do not therefore venture Officially to give any such Order to me, but, in an ungentlemanly

Orders given by
T. L. Mitchell
re firewood.

1833.
10 May.

underhand manner, give your peremptory Orders to the Overseer under my Superintendence (himself a *Convict*) accompanied by a due proportion of Oaths *not to obey my orders* at the peril of your displeasure, and of removing him from his situation. Sir, I know not how to dissimulate; this conduct is worthy of you; it is in keeping with Your Complaints in the very teeth of Truth and Justice; it corroborates as strongly as facts can do the Justice, the occasion, the necessity of my complaint to Lord Goderich of your continued persecution, of which it is another Act.

I transmit a Copy of this letter to His Excellency the Governor, and have the honor to remain, etc. NAT LIPSCOMB KENTISH.

GOVERNOR BOURKE TO VISCOUNT GODERICH.
(Despatch No. 46, per ship Clyde; acknowledged by
right hon. E. G. Stanley, 18th November, 1833.)

My Lord, Government House, 10th May, 1833.

Statutory
prohibition of
indulgences
to convicts.

The Statute 2d and 3d W. 4, Cap. 62, having forbidden the indulgence of any exemption from labor to Convicts, who had not served the periods therein mentioned, I found myself at a loss what to do in the cases of Male Convicts, to whom an abridgment of Servitude had been promised by the Regulations of this Government in consideration of certain services performed by them, as also in the case of Females to whom Tickets of leave were promised after two years of good conduct. With the advice of the Executive Council, I ventured to publish the notice,* of which a Copy is transmitted, and forward at the same time a list of Convicts, to whom I have to request His Majesty may be graciously pleased to permit Tickets to be granted in pursuance of the pledge given by this Government before the Statute referred to was passed, and in conformity to the terms of the Notice now transmitted.

Request for
approval of
tickets of leave.

I have, &c.,

RICHD. BOURKE.

GOVERNOR BOURKE TO UNDER SECRETARY HAY.
(Despatch per ship Clyde; acknowledged by under secretary
Hay, 10th November, 1833.)

16 May.

Sir, Government House, 16 May, 1833.

With reference to Your letter of the 6th October last, directing my attention to one addressed to Viscount Goderich by Mr. Smeathman, Coroner of Sydney, and requesting my report upon certain points which it contains, I beg leave to enclose two Returns, the one shewing the Salary and allowances drawn by Mr. Smeathman during the years 1830, 31 and 1832, the second setting forth the quantity of Land granted to that gentleman in this Colony.

Transmission
of statements
re C. T.
Smeathman.

I cannot agree with Mr. Smeathman that his Salary is too small a remuneration for the duties he has to perform; and, as

besides his established rate of pay he receives an allowance for every Inquest which he may be called upon to hold, I cannot recommend any encrease.

1833.
16 May.

With respect to Mr. Smeathman's complaint of not having received the quantity of Land to which he was entitled, I beg to refer you to the Note at the end of the accompanying Return, from which you will perceive that General Darling granted to Mr. Smeathman 640 Acres of Land more than the amount of Capital produced gave him any claim to. I have, &c.,

Land granted
by R. Darling.

RICHD. BOURKE.

[Enclosure No. 1.]

RETURN of the *Salary and Allowances for Travelling* and all other *Allowances*, paid to *C. T. Smeathman*, Esquire, Coroner at *Sydney*, from 1st January, 1830, to 31st December, 1832, inclusively.

Salary and
allowances paid
to C. T.
Smeathman.

For what Period.	Coroner's Salary.	Allowances to the Coroner for Holding Inquests at 20/- each.	Allowances to the Coroner for Travelling Expenses at 9d. per mile.	Fees Paid to Surgeons for Attending at Inquests at 40/- each.	Paid to Persons for Picking up Dead Bodies at 5/- each.	Amount for each Year.
	£ s. d.	£ s. d.	£ s. d.	£ s. d.	£ s. d.	£ s. d.
1830. 1 Jan.—31 Dec. ...	100 0 0	69 0 0	0 12 9	88 0 0	1 10 0	259 2 9
1831. 1 Jan.—31 Dec. ...	100 0 0	80 0 0	0 9 9	108 0 0	3 5 0	291 14 9
1832. 1 Jan.—31 Dec. ...	100 0 0	63 0 0	1 4 0	86 0 0	3 10 0	253 14 0
	300 0 0	212 0 0	2 6 6	282 0 0	8 5 0	
Total.....						£804 11 6

Amounting in all to Eight hundred and four Pounds, Eleven shillings and six pence Sterling.

Audit Office, Sydney, 21st March, 1833.

WM. LITHGOW, Aud. GL.

NOTE.—The sums actually paid to Mr. Smeathman are those in the first three Columns, Vizt.: Salary, £300; Inquest Fees, £212; Travelling Expenses, £2 6s. 6d.—£514 6s. 6d.

[Enclosure No. 2.]

RETURN of Lands granted to Major Smeathman in New South Wales.

Lands granted
to C. T.
Smeathman.

DATE.—15 May, 1829.

Number of Acres.—1,280.

Situation.—Williams River.

Tenure.—Military; At a peppercorn Quit rent, having served upwards of 20 years in the Army.

Remarks.—The original order for selecting this Land is dated 18 february, 1829.

According to the regulations in force at the time of Major Smeathman's application for Land, that Gentleman, as in ordinary cases, proved his Capital, which however only entitled him to 640 Acres; but, having stated that he had other property although then unavailable, General Darling was induced to grant him an additional 640 acres.

ALEX. MCLEAY.

Colonial Secretary's Office, Sydney, New South Wales, 18 May, 1833.

1833.
17 May.

GOVERNOR BOURKE TO VISCOUNT GODERICH.
(Despatch No. 49, per ship Clyde.)

My Lord, Government House, 17 May, 1833.

Transmission
of report to
treasury.

In obedience to the Instructions contained in Your Lordship's Despatch of the 8th August, 1832, No. 116, I have reported to the Lords Commissioners of His Majesty's Treasury all such new appointments and variations either in augmentation or diminution of expenditure defrayed by the Commissariat out of the Military Chest in this Colony, as have occurred between the 1st January and 31st March last. I have adopted the Form of a Schedule, directed by Viscount Howick's letter of the 12th August, 1831, to be forwarded for the use of the Commissioners for Auditing Public Accounts, as being the readiest and most effectual way of communicating the desired information; and I have the honor to transmit a Copy* to Your Lordship herewith as required by the Despatch first referred to.

I have, &c.,
RICHD. BOURKE.

GOVERNOR BOURKE TO VISCOUNT GODERICH.
(Despatch No. 51, per ship Clyde; acknowledged by
right hon. E. G. Stanley, 28th September, 1833.)

18 May.

My Lord, Government House, 18 May, 1833.

Request by
J. McLean for
full salary as
botanist.

At the request of Mr. John MacLean, Superintendent of the Botanical Gardens at Sydney, I have the honor to transmit a letter, addressed by him to the Secretary of this Government, requesting to be allowed the full Salary of Colonial Botanist, the duties of which office he performed from the decease of the former† to the arrival of the present Botanist. Whilst thus employed, I authorized an increase of £20 per annum to Mr. MacLean's Salary by raising it to one half of that of the Officer whose duties he was performing. The Regulations of the local Government did not permit of my making a more liberal allowance to Mr. MacLean, nor would I recommend Your Lordship to accede to his application, a compliance with which, though in the present instance well merited, might in other cases prove an inconvenient and injurious precedent. I have, &c.,

RICHD. BOURKE.

[Enclosure.]

MR. J. McLEAN TO COLONIAL SECRETARY MACLEAY.

Sir, Botanical Garden, Sydney, 12th April, 1833.

I have the honor to acknowledge receipt of your communication of the 25th ult., No. 33/81, intimating that His Excellency the Governor, altho' fully sensible that I deserve the remuneration solicited, cannot however accede to my application for the Salary

* Note 17.

† Note 18.

attached to the Situation I had filled between the Decease of the last and the appointment of the present Botanist.

His Excellency appearing to consider that the regulations would not warrant his directing the payment in question, I beg you will do me the favor to submit to His Excellency's attention the Cases of Captain Dumaresq and John Stephen, Esquire, each of whom received the *full* Salary attached to the situation of Colonial Treasurer and Registrar of the Supreme Court between the Decease of their respective predecessors, and the nomination of the Gentlemen who now officiate in these capacities.

Having thus adduced two precedents in support of the claim, I humbly trust that His Excellency, if still disposed to decline compliance with my application, will transmit the same to the Right Honorable the Secretary of State for the Colonies, particularly as I had entered into engagements upon the full confidence that this Salary would have been granted; and as in former instances of this nature, I hope His Excellency will not object to authorise this payment, upon my entering into a Bond to refund the amount, should the decision of His Majesty's Government be opposed to the present claim.

On the ground of equity, I humbly conceive the Colonial Government can, with perfect propriety, entertain a favorable view of my case. The Regulations, it is true, provide for leave of absence in the case of a Successor actually appointed, between whom and the party discharging the duties of the Office, the Salary is to be divided. But, during the period from 21 December, 1831, and 6 August, 1832, there was *no Successor* fixed upon; and, the duties devolving ostensibly upon me, I feel confident that His Excellency will now consider himself at liberty to accede to my application, especially under the Security I beg to offer.

I have now acted as an assistant in the Botanical Department of this Colony for four Years, upon a Salary of £80 per annum, a Sum which I feel inadequate to the support of a person in my situation, or indeed as a full remuneration for the services I am required to perform. This circumstance will, I have no doubt operate with due force in the mind of His Excellency, when the present subject again comes before him.

I have, &c.,

JOHN McLEAN.

1833.
18 May.

Precedents for payment of full salary.

Request for reference to secretary of state;

and for payment of full salary.

Salary of J. McLean.

GOVERNOR BOURKE TO VISCOUNT GODERICH.

(Despatch No. 52, per ship Clyde; acknowledged by right hon. E. G. Stanley, 5th November, 1833.)

My Lord,

Government House, 18 May, 1833.

I have the honor to transmit herewith a Memorial addressed to Your Lordship by Mr. Edward Smith Hall, praying that certain Lands* in the Southern District of this Colony, granted to him in the year 1818 by Governor Macquarrie, may be measured in the manner he describes. I have no reason to doubt the accuracy of the statement upon which this claim is founded; but, not finding any Order or letter of former Governments either in the Secretary's or Surveyor General's Office in direct support of it, I did not think proper to remove another Person, though

Transmission of memorial from E. S. Hall.

* Note 19.

1833.
18 May.

Measurement
of land grant
to E. S. Hall.

located much later than Mr. E. S. Hall, in order to give to the latter the exact position, to which he considers himself entitled. Your Lordship will find this position described in his Memorial.

I agreed to Mr. E. S. Hall's request that his Land should be measured according to the natural boundaries, such being beyond all doubt the mode in which it was proposed to be taken up, when he obtained it from Governor Macquarrie; but I directed the actual Shores of the Lake and Morass should be taken as the boundaries, and not the lines to which the waters reached, as Mr. Hall represents when he got his grant. The Surveyor reports indeed that there are traces clearly defined of the distance, to which the Waters spread over the shores at a former period. But, if these are now taken as Mr. Hall's boundaries, he must also retain possession of all the Land, amounting to about 300 Acres as I am informed, situate between that line and the present margins of the Lake and Morass (as otherwise he will be without water), and thus he will obtain perhaps 1,300 Acres instead of 1,000 Acres of Land as originally granted to him. This however would not be a matter of any consideration, if the permitting such mode of measurement to Mr. E. S. Hall had not the effect of driving to the South ward the adjoining Grantee of the Crown, and depriving him of the quantity thus added to Mr. E. S. Hall. No doubt the former might obtain compensation by adding to his Land in another direction; but to this he either objects or seeks such unreasonable compensation as to render it useless to treat with him. I therefore proposed to Mr. E. S. Hall to have his Land measured according to the present line of Water and to give him a small portion of Land elsewhere; but this he has not accepted, alleging that as the first located his possession should not be disturbed and that his neighbour ought to be moved. It seems that the Land to the Southward, of which Mr. Henry Hall has authorized possession, is the best in the District and hence his desire to retain it, and Mr. E. S. Hall's objection to hold land between the present and former Margins of the Waters in lieu of it.

Difficulty in
adjusting
claims of
E. S. Hall.

Recommendation
of claims
of E. S. Hall.

As I am disposed to consider the Statement of Mr. E. S. Hall to be correct, supported as it is by the evident marks of a reflux of the Waters, I would beg to recommend him for such compensation as I proposed, if Your Lordship should not deem him entitled to the full amount of his claim. I have proposed the compensation, considering that the present confused state of the question has arisen from the long delay on the part of this Government in measuring the Land. I have, &c.,

RICHD. BOURKE.

[Enclosure.]

THE MEMORIAL OF EDWARD SMITH HALL.

1833.
13 May.To The Rt. Honorable Lord Viscount Goderich, H.M. Principal
Secty. of State for the Colonies, etc., etc., etc.Memorial
of E. S. Hall.

Most Humbly Sheweth,

That, during the recommendation of Mr. Wilberforce and Sir James Shaw, Your Memorialist was favoured by the Earl of Liverpool, in the year 1811, with a free passage from London to this Colony for himself and family in the female Convict Transport *Friends, Ralph*, master.

Immigration
to colony.

That, during the latter part of the administration of Governor Macquarie, an exploring party* was sent out by him to discover the Country lying to the South-West of the Cowpastures, when two Lakes were discovered distant from Sydney about one hundred and fifty miles, and from the Coast (to the South of Port Jackson) about sixty miles.

Discovery
of lakes
Bathurst
and George.

That Governor Macquarie, being desirous to settle the Interior of the newly discovered Country (which he designated Argyle), and Your Memorialist having a large family, recommended Your Memorialist to settle on a triangular piece of land bounded on the eastern side by a morass, and on the western by Lake Bathurst, the base being enclosed by the forest.

Land
recommended
to E. S. Hall by
L. Macquarie.

That, accordingly, Your Memorialist proceeded to the said farm accompanied by ten assigned Servants, two hundred head of Cattle, and a waggon and three carts laden with provisions, implements and Stores.

Settlement
of farm.

That, on his arrival at the said farm, Your Memorialist found the waters both of the Lake and the Morass had extended themselves since the time that Governor Macquarie visited the Lake. But it had been clearly explained to your Memorialist by the Governor (who had found the Lake and Morass increasing when he visited them) that Your Memorialist's land should not be composed of any portion of land subject to the overflow of the Lake and Morass, but of land free from such inundation; and that, for this purpose, the farm was to be extended at the base of the triangle (which lies to the South) into the adjoining forest, so as to make up the compliment to Your Memorialist of one thousand acres of *sound* land, free from inundation.

Conditions of
land grant.

That Your Memorialist, on his said journey, met with very heavy rains, so that he was three weeks on his passage to the Lake; and such was the boggy state of the road at one period that his carts took nine days to go twenty miles. That besides the loss of provisions (which at that period were dear) thus consumed on the road, Your Memorialist lost a horse through fatigue, value £50, and a working Ox value £14; the loss of Your Memorialist on this journey alone nearly equalled the marketable value of the farm, which he thus essayed to take possession of.

Journey to
lake Bathurst.

That one or more years after Your Memorialist had settled on his said farm, a new mode of measuring land in the Colony came into practice, to wit, measuring it by *sectional lines* in lieu of by *natural boundaries*. But, as Your Memorialist had settled at Lake Bathurst under the old mode of measuring, and under a specific pledge of Governor Macquarie, namely, that his farm should consist of the

New rule for
measurement
of farms.

* Note 20.

1833.
18 May. peninsula of Land situated between the Lake and the Morass, he felt no apprehension that any new rule of admeasurement would be allowed to have a retrospective operation.
- Arrival
of H. Hall. That, about the same time, Mr. Henry Hall, a relative of Your Memorialist, arrived in the Colony with a recommendation from the Secretary of State to receive a Grant of Land.
- Land selected
by H. Hall. That, at the time Mr. Hall received an order from Governor Brisbane to select his land, he was residing on the farm of Your Memorialist at Lake Bathurst in the capacity of Bailiff or Overseer to Your Memorialist, and it was not without the greatest surprise and disappointment that Your Memorialist heard that Mr. Henry Hall had settled on the centre of Your Memorialist's farm by sectional lines and not by the natural boundaries as promised him by Governor Macquarie.
- Memorial re
measurement
of farm. That Your Memorialist gave due notice to Mr. Henry Hall of his trespass, but waived bringing an action of Trespass against him; Your Memorialist having no formal Grant of the land to produce in a Court of Justice until the farms in Argyle should have been measured.
- Objections
by H. Hall. That Your Memorialist, therefore, waited patiently for the farm being measured during the administration of Governor Brisbane, and afterwards during the Government of Governor Darling.
- Compensation
proposed for
H. Hall. That, On the arrival of His Excellency Governor Bourke, Your Memorialist heard that the Surveyor General was about to dispatch Mr. Hoddle (one of the Surveyors) to measure the farms at and in the neighbourhood of Lakes George and Bathurst. Accordingly Your Memorialist applied by Memorial to His Excellency Governor Bourke, praying him to direct the Surveyor General to measure the farm of Your Memorialist according to the promise of Governor Macquarie, on the faith of which Your Memorialist (as before explained) had at the outset incurred great risk, difficulty and expense.
- That Mr. Henry Hall, by Memorial to His Excellency Governor Bourke, objected to such mode of measuring the farm of Your Memorialist, on the ground that he, Mr. Hall, had made certain improvements on the farm; and His Excellency Governor Bourke, in consideration of Mr. Henry Hall producing a letter addressed to him from the Colonial Secretary permitting him to Settle where he had fixed himself, offered to compensate Mr. Henry Hall by giving him land elsewhere for the loss and inconvenience of his having made improvements on the farm of Your Memorialist through the error of the Secretary of the Colony.
- That Mr. Henry Hall agreed to this arrangement, but, afterwards for reasons unknown to Your Memorialist, retracted from his agreement, and Mr. H. Hall now contends that the farm of Your Memorialist should not encroach on his improvements, but should be composed of so much of the land liable to be covered by the periodical overflow of the Lake and Morass (the said Lake and Morass having, during the last six years' droughts, greatly receded) as will leave Mr. Henry Hall's improvements outside or clear of the land of Your Memorialist.
- That Your Memorialist humbly suggests to Your Lordship that whether Mr. Henry Hall wilfully or inadvertently led the local Government astray in procuring from the Colonial Secretary permission to settle on the land of Your Memorialist (and which, as hath before been mentioned, Mr. Henry Hall did in opposition to

the entreaties and warnings of Your Memorialist expressed to him repeatedly, both by message and in writing) your Memorialist having been the first or original Settler at Lake Bathurst (and under whose wing in fact Mr. Henry Hall had been introduced there, without incurring any of that risk and expense which Your Memorialist had incurred in settling in so remote a quarter of the Colony) ought not to be the sufferer by any such error or misapprehension of the Secretary for the Colony; but rather, if through the said mistake of the Secretary *some* one must suffer, it ought to be he who was the cause, wilfully or inadvertently, of such mistake being made, and not Your Memorialist, who has made no error. For, when Your Memorialist made his first journey as before mentioned, he had, as of course, the choice of the whole Country; and consequently, he took peaceable and unopposed possession of his farm, using all the forms and means usual, namely, by sitting down upon it. And Your Memorialist could not, except by violence, prevent either Mr. Hy. Hall, or any other new-comer, or number of new-comers (if so inclined) from settling on the farm; seeing it had not been measured and consequently not fenced in.

That no doubt can exist as to the identical land chosen by Your Memorialist, because the same is marked by grass, different both in colour and kind to that which grows on the late partial beds of the Lake and Morass. If the farm selected by Your Memorialist be measured as is required by Mr. Henry Hall, Your Memorialist will, when the periodical rains again fill the Lake and Morass, find himself in possession of a farm consisting, as your Memorialist believes, of about six or seven hundred acres of land, and three or four hundred of water; a loss which Governor Macquarie expressly engaged with Your Memorialist should not happen to the family of Your Memorialist, for whose benefit this farm at Lake Bathurst was by Governor Macquarie more particularly intended.

Your Memorialist therefore most humbly prays Your Lordship to give directions to His Excellency Governor Bourke to cause the farm of Your Memorialist at Lake Bathurst to be measured to him in the manner promised him by Governor Macquarie, to wit, the peninsula or triangular piece of land, which Your Memorialist took unopposed possession of during the administration of Governor Macquarie and before the arrival of Mr. Henry Hall in the Colony, which happened in the administration of Governor Sir Thomas Brisbane; and consequently that no portion of the Land at Lake Bathurst, which lately formed the beds in part of the said Lake and of the Morass adjoining thereto, be measured to Your Memorialist, it being covered with water at the time Your Memorialist chose his land, and consequently formed no portion of his choice; and that Your Memorialist be not indemnified or compensated by His Excellency Governor Bourke for the error made by the Government of Sir Thomas Brisbane in permitting Mr. Henry Hall to settle on the farm of Your Memorialist, but rather that Mr. Henry Hall as the cause (witting or unwitting) of such error, and also as being *junior* to Your Memorialist as a settler at Lake Bathurst, and further as having incurred *none of the expenses* which Your Memorialist incurred in being the Settler who adventured first into that remote quarter of the Colony, be compensated by the local Government for such error, as is agreeable to equity.

And as in duty bound Your Memorialist will ever pray, etc.

Sydney, 5th April, 1833.

E. S. HALL.

1833.
18 May.

Claims of
E. S. Hall as
first settler.

Request for
confirmation
of conditions
granted by
L. Macquarie.

1833.
22 May.

UNDER SECRETARY HAY TO GOVERNOR BOURKE.

(Despatch per ship Lord Lynedock; acknowledged by
Governor Bourke, 5th December, 1833.)

Sir, Downing Street, 22nd May, 1833.

Inquiry *re*
T. Hewit.

I am directed by Mr. Secretary Stanley to transmit to you the enclosed copy of a Memorandum, which has been received from Mr. Ward, an Attorney in Lancashire, respecting a man named Thomas Hewit, who was transported to Van Dieman's Land in 1817, and from thence removed in 1820 to Sydney to be tried for some crime, which he had committed in the former Colony. As the succession to an Estate in this Country depends upon the fate of Thomas Hewit, I am directed to request that you will use your best endeavours to ascertain, whether this person is living or dead, and in either case that you will forward to this office such a Certificate of the fact, properly attested, as would be received in evidence in the Courts here. If you should be unable to procure any satisfactory information on the subject in New South Wales, I am to request that you will apply to Colonel Arthur to institute similar enquiries in Van Diemen's Land.

I am, &c.,
R. W. HAY.

[Enclosure.]

MR. EDMUND WARD TO RIGHT HON. E. G. STANLEY.

Sir, Prescot, Lancashire, 1st May, 1833.

I feel deeply indebted to you for your kindness in endeavouring to procure me information respecting the Convict Thomas Hewit, and, in accordance with the suggestions contained in Mr. Hay's Letter of the 12th Ult., I beg to inclose you a Statement containing as ample Information as I have been able to collect.

I have, &c.,
EDMUND WARD.

[Sub-enclosure.]

STATEMENT.

Statement *re*
conviction and
transportation
of T. Hewit.

THOMAS HEWIT, of Prescot, Lancashire, Husbandman, only son of James Hewit, formerly of Prescot aforesaid, but latterly of Whistow, Lancashire, Yeoman, was in or about the year 1817 or 1818 convicted of stealing a quantity of Cotton belonging to Kenworthy and Company, the celebrated Carriers from London to Liverpool and Manchester, and he was sentenced to seven years' transportation, John Seddon of Whistow aforesaid, Farmer, being the principal Witness, and also the Prosecutor in consequence of the Cotton having been stolen whilst under his custody as Agent to Kenworthy and Company. Thomas Hewit was transported to the Ship Surrey to Van Diemen's Land, where in or about the year 1820 he committed some offence and was sent to Sydney, New South Wales, for trial; what became of him afterwards is unknown to his family, for, by a Letter I have from Mr. Capper of the Home Office, dated 26th July, 1830, it appears that no Notice has been

taken of Hewit's Name in any Returns to the Colonial Department from New South Wales.

1833.
22 May.

The above named Thomas Hewit was born in or about the year 1780, was about 5 feet 7 or 8 inches in Height, dark complexion, dark eyes and dark hair, and was stout and thickset but not corpulent; his under or lower Lip was what is usually denominated a hare lip, that is parted or divided in two; he married one Margaret Kenwright of Bold, Lancashire, who is still living and by whom he had five or six children.

Description
of T. Hewit.

Official Certificates of his Burial are wanting in order to make out a proper Title to a small Estate in Whistow, of which his father lately died possessed, and which would belong to the Convict as Heir at Law in the event of his being alive and his Sentence having expired.

Reasons for
request for
certificate of
death.

EDMUND WARD,

Prescot, Lancashire, 1st May, 1833.

Attorney at Law.

RIGHT HON. E. G. STANLEY TO GOVERNOR BOURKE.

(Despatch No. 11, per ship Lord Lynedock.)

Sir,

Downing Street, 23d May, 1833.

23 May.

I have received your Dispatch No. 114 of the 3d November last, in which, with reference to the addition of Stipendiary Magistrates authorized by Lord Goderich's Dispatch No. 62 of the 25 Jany. last, you convey to His Majesty's Government the satisfactory Information that, in lieu of augmenting the number of such Magistrates, you had been enabled to dispense with the services of three of those, who had been previously employed.

Despatch
acknowledged.

Although the saving of Expence, which has arisen from this reduction, will have been absorbed by the Appointments of Superintendents and Constables, which have taken place consequent upon the arrangement, which you also announce as having carried into effect for placing the Iron Gangs under stricter controul, yet His Majesty will not object to your reviving the stipendiary Magistrates, whose Situations you have abolished, for the service of those places, at which it may be necessary to station them, should you come to the determination of abandoning the intention to which you refer of appointing an Itinerant Justice to hear periodically the complaints which parties may desire to bring before him.

Authority for
appointment
of stipendiary
magistrates.

I am, &c.,

E. G. STANLEY.

UNDER SECRETARY HAY TO GOVERNOR BOURKE.

(Despatch per ship Lord Lynedock.)

Sir,

Downing Street, 24th May, 1833.

24 May.

I have received the directions of Mr. Secretary Stanley to acquaint you, for your information, that the Lords Commissioners of His Majesty's Treasury have, upon the suggestion of

1833.
24 May.

Sydney to be
constituted a
free port.

the Commissioners of Customs, recommended to the Lords of the Committee of Privy Council for Trade that the Port of Sydney should be constituted a Free Port, under the Provisions of the 2d and 73d Sections* of the Act 6 Geo. 4, Cap. 114, and of the 43d Section* of the Act 7 Geo. 4, Cap. 48, should they see no objection thereto.

I have, &c.,

R. W. HAY.

UNDER SECRETARY HAY TO GOVERNOR BOURKE.

(Despatch per ship Lord Lynedock.)

25 May.

Exclusion of
convict from
ship *Buffalo*.

Sir,

Downing Street, 25th May, 1833.

With reference to my Letter of the 4th Instant, transmitting the assignment List of 180 female Convicts embarked in the "*Buffalo*," I am directed by Mr. Secretary Stanley to acquaint you that it appears, by a Communication received from the Home Department, that Helen McNab or Allison, one of the Convicts named in such List, was not embarked in that Ship, and that there are consequently only 179 Prisoners on board, instead of the number first mentioned.

I have, &c.,

R. W. HAY.

GOVERNOR BOURKE TO UNDER SECRETARY HAY.

(Despatch per ship *Adventurer*; acknowledged by under secretary Hay, 10th November, 1833.)

Sir,

Government House, 25 May, 1833.

Despatch
acknowledged
re precedence
of sheriff.

I have the honor to acknowledge the receipt of your letter of the 5th October, forwarding one addressed to Lord Goderich by the Sheriff of this Colony, remonstrating against the rank given to his office by Sir George Murray, and requesting to be allowed that Place in the Table of Precedence, which before its publication was conceded by courtesy to those in his Office. I am directed by Your letter to enquire whether Sir George Murray's order has had the effect of lowering the rank of the Sheriff, and to rectify the error if it can be done without dissatisfaction to those, who will be effected by it.

Precedency
granted to
sheriff by
courtesy.

In reply, I have the honor to inform you that, before the receipt of Sir George Murray's Despatch fixing the Rank of Civil Officers under this Government, Mr. Macquoid assures me the Sheriff had by courtesy been allowed precedence next after the Judges and before the Attorney General. The Place however of the Sheriff having been left unnoticed in the Despatch,† that officer was subsequently, on application to the Secretary of State, directed to take rank next after the Members of the Legislative

* Note 21.

† Note 22.

Council. When it is considered that these are all appointed by the Crown, I am inclined to think they would be dissatisfied at the Sheriff being now placed before them, and certainly it would offend the Law Officers of the Crown to put the Sheriff next after the Judges. I do not indeed see that the Sheriff of a Colony is more entitled to Rank than the Registrar or Master of the Court, of which the Sheriff is a mere Ministerial Officer. To attempt to draw any analogy between the Sheriff of the Common and Statute Law of England and the Sheriff of a Colony seems to me quite unreasonable; and it surely would not be desirable to introduce here the inconveniences, which are found to attend the office as constituted in England. Mr. Macquoid now asks to take rank after the Attorney General; but I am of opinion it will be most advantageous to leave this matter of precedence as settled by Sir George Murray.

1833.
25 May.

Opinion of
R. Bourke re
precedency of
sheriff.

I beg leave to observe here that, whenever another appointment of Sheriff shall take place, I conceive it will be found beneficial to nominate some Person bred to the Law of an active hustling turn, and who will not be above discharging most of the duty himself. By allowing him to take the Fees, the whole of the Criminal business would be done for nothing and a Saving effected of at least £500 a year. Mr. Macquoid is an excellent Gentleman of high character and respectability, but he is obliged to leave much of the duty of his Office to a Deputy, and not infrequently incurs losses by Actions at Law, which he applies to me to pay, but which I am compelled to refuse. These refusals on my part will probably form the subject of a Memorial to the Secretary of State.

Proposed
change on new
appointment
of sheriff.

Character of
T. Macquoid.

Actions lost by
T. Macquoid.

I have, &c.,

RICHD. BOURKE.

UNDER SECRETARY HAY TO GOVERNOR BOURKE.

(Despatch per ship Lord Lynedock; acknowledged by
Governor Bourke, 22nd November, 1833.)

Sir, Downing Street, 26th May, 1833.

26 May.

I am directed by Mr. Secretary Stanley to transmit to you the enclosed copy of a letter from Mr. Phillipps, representing the inconvenience felt at the Home office from the want of regular Returns of the death and escape of Convicts; and I am directed to call your attention to the Instructions, which have been issued by his Predecessors upon this subject, and to desire that you will caution the officer, whose duty it may be to prepare these Returns, to be more attentive to the regular transmission of them in future, otherwise it will be incumbent upon the Secretary of State to resort to other measures for effecting this object.

Want of
regular returns
of death and
escape of
convicts.

1833.
26 May.

I take this opportunity again to advert to the delay in sending home the Nominal Return of Convicts, and to convey to you Mr. Stanley's desire that this Return may be transmitted with as little delay as possible.

I am, &c.,
R. W. HAY.

[Enclosure.]

MR. S. M. PHILLIPPS TO UNDER SECRETARY HAY.

Sir, Whitehall, 20 May, 1833.

Necessity for returns of death and escape of convicts.

With reference to letters written from this Department to the Colonial Office, dated the 16th August, 1825, and 4 September, 1831, requesting that regular periodical Returns might be furnished of the death and escape of Convicts in the Australian Colonies, I am directed by Viscount Melbourne to request that you will draw the attention of Mr. Secretary Stanley to this subject, and move him to be pleased to give such directions as may be deemed necessary for ensuring the future regular Supply of the required information, as great convenience would result from accurate Returns on this head; it being most essential to give every publicity in this Country as to the escape of Convicts, as well as very desirable to have the means of furnishing the relations and families of Convicts with information that may be relied upon as to their life or death.

I am, &c.,
S. M. PHILLIPPS.

UNDER SECRETARY HAY TO GOVERNOR BOURKE.

(Despatch per ship Lord Lynedock.)

27 May.

Sir, Downing Street, 27th May, 1833.

Books transmitted for King's school.

The Agent for New South Wales having applied to the Secretary of State for Authority to provide certain Classical Books for the use of the King's School at Paramatta, the expence of which will amount to £267 13s. 6d., Mr. Stanley has directed me to call your attention to the Subject, in order that some arrangement may be made for obtaining repayment of the Sum, which has been expended on this account. This object will, in his opinion, be best accomplished by charging each scholar, who may be admitted to the benefit of the Institution, with the cost of each Book with which he may be furnished, and by requiring the Head Master of the Establishment to render an account, at stated intervals, of the Books which may have been so disposed of. I am further directed to transmit to you the Estimate which has been obtained by the Agent of the cost of each of the Publications enumerated in the List which he has received.

Instructions for repayment of cost.

I have, &c.,
R. W. HAY.

[Enclosure.]

[A copy of this estimate is not available.]

RIGHT HON. E. G. STANLEY TO GOVERNOR BOURKE.

1833.
30 May.

(A circular despatch per ship Aurora.)

Sir, Downing Street, 30 May, 1833.

I transmit to you herewith an Order of the King in Council under date of the 29th Inst., revoking His Majesty's previous Order of the 6th of November last for laying an embargo upon Ships and Vessels belonging to the subjects of the King of the Netherlands.

Revocation of
embargo on
ships from the
Netherlands.

I have, &c.,

E. G. STANLEY.

[Enclosure.]

[This was a copy of the supplement to the London Gazette, dated 29th May, 1833.]

RIGHT HON. E. G. STANLEY TO GOVERNOR BOURKE.

(Despatch No. 12, per ship Aurora.)

Sir, Downing Street, 31 May, 1833.

31 May.

His Majesty's Government having thought proper to consolidate the several Agencies of the Crown Colonies, I have to acquaint you that Mr. George Baillie and Mr. Edward Barnard have been appointed Joint Agents General and have opened respectively Public Accounts at the Bank of England.

Agencies for
crown colonies.

Each of these Gentlemen is entrusted with the charge of a distinct class of Colonies, and under this arrangement the Agency of the Australian Colonies will still be carried on by Mr. Barnard, whose Office is at No. 2 Parliament Street.

Agency for
Australian
colonies.

To this Gentleman, therefore, you will continue to make all such remittances as may be found requisite for the service he will have to perform.

It is not in my power at the present moment to apprise you of the extent of the pecuniary contributions, which this measure will call for from the several Colonies concerned in it.

The arrangement is considered as having taken effect from the 1st of April last.

I have, &c.,

E. G. STANLEY.

RIGHT HON. E. G. STANLEY TO GOVERNOR BOURKE.

(Despatch No. 13, per ship Aurora.)

Sir, Downing Street, 5 June, 1833.

5 June.

I have received your Dispatch No. 119 of the 20th December last, accompanied by a Memorial from Mr. William Jacques, of the Surveyor General's department, on the subject of his increase of Salary; and I have to desire that you will inform

Refusal of
prayer of
memorial from
W. Jaques.

1833.
5 June.

Mr. Jacques that I must decline to interfere in his case, having no reason to doubt the propriety of the discretion exercised by the Surveyor General in refusing to sign the Certificate on which alone he would have been entitled to the increase in question.

I am, &c.,

—————
E. G. STANLEY.

RIGHT HON. E. G. STANLEY TO GOVERNOR BOURKE.

(Despatch No. 14, per ship Aurora.)

6 June.

Sir,

Downing Street, 6 June, 1833.

Despatch
acknowledged
re military
officers on
half-pay.

I have received your Despatch No. 2 of the 2d January last, enclosing a List of Officers on the Half-Pay of the Army, who are employed in Civil situations under your Government. I have not thought it necessary to recommend the Lords Commissioners of the Treasury to exercise, in any of these cases, the power vested in them by Parliament, as the Salaries, attached to the situations filled by the Officers in question, are not so small as to require the issue to them of their Half-pay.

I am, &c.,

—————
E. G. STANLEY.

UNDER SECRETARY HAY TO GOVERNOR BOURKE.

(Despatch per ship Aurora.)

7 June.

Sir,

Downing Street, 7th June, 1833.

Instructions re
payment of
advances and
bounties on
immigrants.

With reference to my letter of the 18th April last, in which I apprised you that several of the Passengers, who were to have proceeded by the "Lady East," had been transferred to the "Edward Colson," and to my letter of the 17th April, in which you were directed to pay the orders to Mr. E. D. Thompson, or, in his absence, to the Managers or Directors of the New South Wales Bank, for behoof of Messrs. Chalmers and Guthrie of London, I am now directed by Mr. Secretary Stanley to desire that the orders for advances and Bounty in the cases of those Emigrants, who may arrive in the "Edward Colson," may be paid to the order of Mr. J. Irving, the owner of that vessel.

I am, &c.,

—————
R. W. HAY.

RIGHT HON. E. G. STANLEY TO GOVERNOR BOURKE.

(A circular despatch per ship Aurora.)

8 June.

Sir,

Downing Street, 8th June, 1833.

Instructions re
duties of
civil officers
on leave of
absence.

I have to call your attention to my Predecessor's Circular Dispatches of the 31st August, 1831, and 23d April, 1832, defining the mode in which the duties of Civil Officers, proceeding on leave of absence from the Colonies, are to be performed and a moiety of their Salaries disposed of.

The latter of those Dispatches has reference solely to Custom House Officers, who, you will perceive, are governed by Regulations which the Lords of His Majesty's Treasury consider to be best adapted to their case, and the principle of which is not applicable to other Public Servants.

1833.
8 June.

You will, therefore, take care to exempt all Custom House Officers from the operation of the Rules laid down in my Predecessor's Dispatch of 31 Augt., 1831, and you will of course not retain in the Public Treasury a moiety of their Salaries during their absence on leave from the Colony. I have, &c.,

Exemption of
customs officers
from general
rule.

E. G. STANLEY.

UNDER SECRETARY HAY TO GOVERNOR BOURKE.

(Despatch per ship Aurora.)

Sir, Downing Street, 8 June, 1833.

I am directed by Mr. Secretary Stanley to acquaint you that arrangements are in progress for despatching to New South Wales, about the 15th of August next, a vessel with from 200 to 250 Female Emigrants, under the same Regulations and advantages as in the case of those sent out in the "Bussorah Merchant." I am, therefore, to desire that you will give full publicity in the Colony to this measure, and that you will follow the course hitherto pursued in regard to the reception and disposal of these Females on their arrival.

Female
immigrants to
sail for colony.

I am, &c.,

R. W. HAY.

UNDER SECRETARY HAY TO GOVERNOR BOURKE.

(Despatch marked "Private," per ship Aurora.)

Dear Sir, Downing Street, 9th June, 1833.

9 June.

Application has been made to me, on behalf of Mrs. Knatchbull, to ascertain the truth of the report of the death of her husband, John Knatchbull* (brother to Sir Edward), who was transported to New South Wales for 14 years in 1827 or 1828. I have, therefore, to request that you will enquire whether this person is still living, and, in the event of his death, that you will transmit to me a certificate of the fact, regularly attested, for the information of the Widow.

Report
required re
J. Knatchbull.

I am, &c.,

R. W. HAY.

UNDER SECRETARY HAY TO GOVERNOR BOURKE.

(Despatch per ship Aurora.)

Sir, Downing Street, 11 June, 1833.

11 June.

I am directed by Mr. Secretary Stanley to acquaint you that the Court of Directors of the Australian Agricultural Company have notified their appointment of L. Colonel Dumaresq to be the Commissioner to the Company upon the retirement of

H. Dumaresq
to be
commissioner
for A.A.
company.

* Note 23.

1833.
11 June.

Sir Edward Parry; and I am to request that you will afford to Colonel Dumaresq the same facility and assistance in conducting the Company's affairs as were enjoyed by Sir Edward Parry.

I am, &c.,
R. W. HAY.

RIGHT HON. E. G. STANLEY TO GOVERNOR BOURKE.
(Despatch No. 15, per ship Aurora.)

12 June.

Sir, Downing Street, 12 June, 1833.

Approval of
payment of
costs for
T. Evernden.

I have received your Despatch No. 109 of the 29th October last, reporting the circumstances under which you had sanctioned the issue out of the Military Chest of £304 14s. 5d. to Mr. Thomas Evernden, Police Magistrate at Bathurst, being the amount of Damages and Costs awarded against him in an Action for false imprisonment brought by John Morrison.

Having referred your Despatch for the consideration of the Lords Commissioners of the Treasury, I am happy to acquaint you that their Lordships have intimated their approval of the payment of this money out of the Military Chest.

I am, &c.,
E. G. STANLEY.

UNDER SECRETARY HAY TO GOVERNOR BOURKE.
(Despatch per ship Aurora.)

13 June.

Sir, Downing Street, 13 June, 1833.

Instructions
for preparation
of rent rolls
and collection
of debts.

With reference to the Dispatch of Lord Goderich, dated the 28th of March last, in answer to your dispatch of the 22d September, 1832, forwarding a statement prepared by the Auditor of the Revenue and Expenditure of your Government for the year 1831, I am directed by Mr. Secretary Stanley to transmit to you the enclosed Copy of a Letter from the Secretary to the Treasury on the suggestions of the Auditor in regard to the Collection of the Territorial Revenue, and to desire that you will immediately adopt the necessary steps for causing the Rent Rolls to be completed, and for carrying into effect the other measures pointed out in that Letter for the Classification of the Arrears of Rents and other debts, due from Individuals to His Majesty on account of the Crown Lands, and for the recovery of them.

I have, &c.,
R. W. HAY.

[Enclosure.]

HON. J. STEWART TO UNDER SECRETARY HAY.

Sir, Treasury Chambers, 31st May, 1833.

I am commanded by the Lords Commissioners of His Majesty's Treasury to request that you will suggest to Mr. Secretary Stanley, with reference to the Letter addressed by the Auditor of Accounts at New South Wales to the Colonial Secretary on the

22d June, 1832, that the Governor of that Settlement should be instructed to take measures without delay for procuring the compilation of clear and complete Rent Rolls, and for the regular continuing of the same, as being necessary both with a view to the due collection of the Rents and to afford a constant Record of the claims of the Crown on the Lands; and my Lords conceive it may be advisable to authorize the Governor to incur any reasonable expence in the employment of Extra Clerks for the purpose of compiling the Rolls in the first Instance.

My Lords would also suggest that the Governor should be desired to adopt the recommendation of the Auditor in regard to the classification of the Arrears and Debts due to the Colonial Treasury, and, when such classification shall have been made, to report specially for the information of His Majesty's Government in what manner, and at what period, these Debts were allowed to be incurred, the circumstances that have occasioned them to remain unliquidated, and the measures that may have been adopted for enforcing or procuring their recovery or adjustment.

I am, &c.,

J. STEWART.

1833.
13 June.

Instructions
for preparation
of rent rolls
and collection
of debts.

RIGHT HON. E. G. STANLEY TO GOVERNOR BOURKE.

(Despatch No. 16, per ship Aurora.)

Sir,

Downing Street, 14 June, 1833.

14 June.

I have the honor to acknowledge the receipt of your letter of the 6th August last, No. 72, bringing under my notice the inconvenience, which the Merchants at Sydney sustain from the want of proper Stores in which to bond their Goods.

Despatch
acknowledged.

Having referred the subject for the consideration of the Lords Commissioners of the Treasury, I enclose, for your information, a copy of the answer which has been received from Mr. Stewart, with a copy of a Report of the Board of Customs. On a perusal of these papers, you will perceive the objections which are entertained to the propositions submitted in your Despatch. If, however, you should consider that the interests of the Merchants are not sufficiently consulted by the present Regulations, you will, of course, not fail to bring the subject again under my notice, with a statement of the mode in which you would propose to afford them relief, in order that the Board of Treasury may be enabled to form a correct decision in the matter.

Problem of
bonded stores.

I am, &c.,

E. G. STANLEY.

[Enclosure No. 1.]

HON. J. STEWART TO UNDER SECRETARY HAY.

Sir,

Treasury Chambers, 4th June, 1833.

I am commanded by the Lords Commissioners of His Majesty's Treasury to transmit herewith the copy of a Report from the Commissioners of Customs, dated the 18th Ultimo, relative to the Regulations under which bonded Stores are at present provided for

1833.
14 June.
—
Objections to
proposal of
R. Bourke *re*
bonded stores.

Goods imported into New South Wales; and I am to acquaint you for the information of Mr. Secretary Stanley with reference to your Letter of the 15th of April last, that my Lords have given full attention to General Bourke's proposal for affording additional facility to the Merchants at Sydney in bonding their goods; but, advertising to the fact that the Warehouse Rent has fallen from 1s. 3d. to 6d. per ton per week, and conceiving that a deviation at any particular Port from the General Warehousing Regulations, established in all the Colonies, is objectionable and ought not to be sanctioned excepting under peculiar circumstances, and upon strong grounds, My Lords are of opinion that the proposal, as it is now presented to them, ought not to be acceded to. They will, however, be ready to consider any representation which the Governor may make, if he should observe partiality on the part of the Collector and Comptroller in approving Warehouses, and if the Rent charged by the Proprietors of approved Warehouses should exceed the amount, which the Proprietors of other Warehouses equally secure and suitably situated are willing to charge, my Lords will be ready to consider the proper means of relieving the Merchants from that hardship on receiving a statement of the case.

I am, &c.,
J. STEWART.

[Enclosure No. 2.]

REPORT BY COMMISSIONERS OF CUSTOMS.

Report on
warehousing
system and
on charges
proposed by
R. Bourke.

MAY it please your Lordships,

Your Lordships, having referred to us the annexed Letter from Mr. Hay, transmitting by desire of Mr. Secretary Stanley the accompanying copy of a Despatch from Major General Bourke, together with a Memorial from Mr. Inglis, Agent to the Australian Company of Edinburgh, and other enclosures, on the subject of the Regulations under which Bonded Stores are at present provided for Goods imported into New South Wales,

We Report,

That, with respect to the Memorial which had been addressed to the Governor of New South Wales by Mr. Thomas Inglis, Agent to the Australian Company of Edinburgh, the annexed statement of the Collector and Comptroller of this Revenue at Sydney, for whose observations His Excellency had deemed it expedient to refer the same, contains so full and satisfactory an explanation upon the several allegations therein contained as to render it unnecessary for us to enter into much detail upon the several points adverted to by Mr. Inglis; and we shall therefore confine our observations to the propositions contained in Major General Bourke's Despatch, and merely reply to such other matter arising out of the Memorial of Mr. Inglis, therein referred to, as may involve the consideration of the general policy of the measures, which have been adopted for the introduction of the Warehousing system into the British Possessions abroad.

In the Despatch, which has been addressed by the Governor of New South Wales to His Majesty's Principal Secretary of State for the Colonies, His Excellency adverts to the practice, under which the officers of this Revenue approve of Warehouses to such an extent only as they may think necessary, and that the Warehouses are engaged from such Persons as they may prefer without any stipulation as to the Rent to be charged, from which it might be

inferred that the Individuals thus selected may charge what they please, and that those, who deposit their goods under Bond in such Warehouses, must be compelled to pay the price demanded, however ill suited the Stores may be for their purposes; His Excellency also adverts to the complaint of Mr. Inglis that he had not been allowed to bond his rum in his own Stores, which are well suited to the storage of Liquors having earthen Floors, but had been compelled to place them in other Stores, in which from their construction the leakage had been considerable and for which a high rent was charged.

With the view of removing all causes of complaint, His Excellency suggests the expediency of reverting to what he believes had been the practice in London before the opening of the large Docks and Warehouses, namely to allow goods to be bonded in all well secured private Stores approved by the Officer of Customs, but that, if any objection should exist to that suggestion, His Excellency proposes as an alternative that a schedule of Warehouses, offered by the Proprietors and approved by the Officers of the Customs for Bonding Stores, should be made out, and the Proprietors invited by advertisement to tender the rates at which they would take in goods, and that a sufficient number of those offering at the lowest rate should be licensed for three or five Years.

With respect to the objections, which have been urged by the Governor of New South Wales against the practice which at present exists in approving of Warehouses in New South Wales, We beg leave to state for your Lordships' information that, by the 33d Section of the Act, 6 Geo. 4th, Chap. 114, it is enacted "that it shall be lawful for the several Collectors and Comptrollers of the Ports (which may have been constituted for Warehousing Ports) by notice in writing under their hands to appoint from time to time such Warehouses at such Ports respectively, as shall be approved of by them, for the free Warehousing and securing of Goods therein for the purposes of the said Act, and also in such notice to declare what sorts of Goods may be so warehoused, and also by like notice to revoke or alter any such appointment and declaration."

That, by our general Instructions to the Collectors and Comptrollers at Free Warehousing Ports in the British Possessions abroad, those Officers are enjoined to take care that in the first instance their approval be as far as practicable confined to one entire stack of Warehouses, nearest to the usual places of landing and shipping, and best adapted for the security of the Goods deposited therein, and for the despatch and accommodation of the Trade of the Port; and they are also enjoined not to approve of any greater number of Warehouses than may be found sufficient for the Trade of the Port.

That one of the principal objects, which your Lordships had in view in placing the Customs Department at New South Wales under the control and management of this Board and in appointing an experienced officer from this Country to fill the situation of Collector of this Revenue at Sydney, was to place the Warehousing system at New South Wales upon the same footing and under the same regulations as have been laid down for the conduct of that Department in the several other British possessions abroad.

That, upon the arrival of Mr. Cotton the present Collector at Sydney in the year 1828, he lost no time in taking such steps as appeared to him to be the most advisable for the purpose of

1833.
14 June.

Report on
warehousing
system and
on changes
proposed by
R. Bourke.

1833.
14 June.

Report on
warehousing
system and
on changes
proposed by
R. Bourke.

gradually introducing the Warehousing System into that Colony in accordance with the Instructions, which he had received from his Government upon the subject; and it would appear, from the annexed Report of the Collector and Controller at Sydney to His Excellency the Governor, that, altho' from the novelty of the proposition they experienced considerable difficulty in inducing Individuals in the first instance to offer their Warehouses for the general approval, they eventually succeeded in approving of a sufficient number of Warehouses for the general accomodation of the Trade of the Port; and the best evidence of the beneficial effects, which have resulted to the Trade of the Colony have these arrangements, is the facts that the charge for Warehouse Rent has been reduced from 1s. 3d. to 6d. per Ton per week, and which is mainly to be attributed to the competition which had been created among the several Individuals, whose Warehouses had been approved of by the Collector and Controller since the introduction of the present system.

With respect to that part of the Despatch, wherein General Bourke proposes that, in lieu of the system at present adopted at New South Wales, the practice which prevailed in London before the opening of the large Docks and Warehouses should be reverted to, We have to state that any system founded upon a practice imperfectly understood, which might have existed at this Port prior to the opening of the London and West India Docks, would, as we apprehend, at the present day be wholly inapplicable either to the Trade of the Port of London or that of New South Wales, and that to authorise the Collector and Comptroller at Sydney to permit Goods to be indiscriminately bonded in all private Stores without reference to the general Trade of the Port or without any restriction as to the local situation of the Premises would be opposed to every principle, which is at present acted upon in carrying on the Warehousing system in the united Kingdom, as well as the British Possessions abroad, and could not in fact be carried into effect in the manner proposed without incurring such an additional expence for an encreased number of Officers as would be far more than commensurable with any convenience to be derived by the Trade of the Colony.

Under these circumstances, and as we have always considered it to be highly desirable that the number of approved Premises at the several Warehouses should be concentrated as far as practicable near to the places of Landing and shipping, with the view not only to the greater security of the Revenue but diminish the expence arising from the number of Officers that must be necessarily employed in taking charge of the same, We see no ground to induce us to recommend to your Lordships a departure from the established regulations in this respect in the particular instance of Sydney as proposed by His Excellency the Governor of that Colony.

With regard to that part of General Bourke's Despatch, wherein he proposes as an alternative that a schedule of Warehouses offered by the Proprietors and approved by the Officers of Customs for Bonding Stores should be made out, and the Proprietors invited by advertizement to tender the rates at which they would take in goods, and that a sufficient number of these tendering at the lowest rate should be licenced for three or five years, We beg leave to state that it does not clearly appear in what manner the Plan proposed would obviate the objection urged against the present

system by His Excellency, as it would be still left to the Principal Officers of the Customs to decide as to the efficiency of the number of Warehouses that it might be expedient to licence, and that, with respect to advertizing for tenders, with the view of fixing a minimum charge for Warehouse Rent, We are of opinion that it would be highly inexpedient for the Crown to interfere in the manner proposed, and that the best security, which the Merchants can have against improper charges, is a steady adherence to those regulations from whence beneficial effects have resulted to the Trade and Commerce of the United Kingdom and the several British Possessions abroad, wherever the same have been acted upon, and which in the case of New South Wales have as before stated already led to a reduction of the Warehouse Rent from 1s. 3d. to 6d. per Ton per week.

Having now submitted for Your Lordships' consideration our observations upon the several propositions contained in General Bourke's Despatch, We have only further to observe, with reference to that part of the Memorial of Mr. Inglis, wherein he requests that the Stores of the Australian Company may be approved, and complains of the loss sustained by the leakage of certain spirits, which had been lodged in one of the approved Warehouses, that it is stated by the Collector and Comptroller in their annexed Report to the Governor's that the Stores of the Australian Company and highly eligible as bonding Warehouses may be, and that, should a necessity arise for increasing the number of approved Warehouses, the request of Mr. Inglis will be duly considered by them, with reference to the claims of any other Parties when Premises may be equally eligible with those of the Australian Company. And with respect to the complaint of Mr. Inglis of the loss which had been sustained on five hogsheads of spirits, whilst in the bonded Warehouses at Sydney, We have to state that it would appear, from the Report of the Collector and Comptroller, that the deficiency on the spirits in question was to be attributed into leakage in consequence of the Casks not having been properly coopered upon importation, and not to the drying of the Floors of the Warehouses as alleged by Mr. Inglis, evaporation to the extent of the deficiency complained of being scarcely possible. On this point it may not be improper to draw Your Lordships' attention to the concluding Paragraph of the Collector and Comptroller's Report, wherein they state that, on an average of the total quantity of Spirits in bond at Sydney, the deficiencies do not exceed one per cent. per annum, a loss of a very trifling nature where the warmth of the climate and other circumstances are taken into consideration, and which would tend materially to negative the assertion of Mr. Inglis, in respect to the ineligibility of the Premises at present approved at Sydney for the deposit of spirits; it would further appear that, upon the application of Mr. Inglis, permission was granted by the Collector and Comptroller for the removal of the spirits belonging to the Australian Company from the bonded Premises, in which the same was deposited, to other approved Warehouses, which were considered by Mr. Inglis to be better adapted for the storage of spirits.

R. B. DEAN. E. STEWART.
VILLERS. D. M. BIRMING.

Custom House, 18th May, 1833.

1833.
14 June.

Report on
warehousing
system and
on changes
proposed by
R. Bourke.

1833.
15 June.

RIGHT HON. E. G. STANLEY TO GOVERNOR BOURKE.
(Despatch No. 17, per ship Aurora; acknowledged by
Governor Bourke, 10th October, 1834.)

Sir, Downing Street, 15th June, 1833.

Upon receiving from His Majesty the Seals of this Department, my attention was necessarily directed to many important subjects in which the Interests of the Colonies are involved, and, amongst those which have come under my consideration in reference to the affairs of your Government, none have appeared to me of greater consequence than that connected with the general survey and valuation of the Lands throughout the Colony for the objects and upon the principle pointed out in the Instructions* under the Royal Sign Manual, issued to your Predecessor in the year 1825; and I regret that, in entering upon this subject, the disagreeable task should be imposed on me of conveying, through you, to the officer in charge of the Surveyor General's Department the King's surprise and disappointment, that the progress, which has been made in the survey of the Colony (so far at least as can be ascertained from any reports, which have, as yet, been received of his operations) should have been so disproportioned to the means, which have been placed at his disposal.

Problem of
survey and
valuation of
lands.

Criticism of
want of
progress.

Before I advert further to the unsatisfactory results, which have attended the operations of the Surveyor General with reference to those objects which His Majesty's Government were so desirous to see accomplished, it may be convenient to bring under one view the strength of the Surveyor General's Department during the year preceding Major Mitchell's appointment, the gradual augmentation which it subsequently received, and the number of Persons of which it is at present composed.

Staff of
surveyor-
general's
department.

In the year 1826, when Mr. Oxley was at the head of that Department, it appeared that there were at his disposal only five efficient Surveyors, two of the Establishment not being fit for service, with only one Draftsman, whose experience was very inadequate to his duties. A representation upon this subject led, in 1827, to the appointment of seven additional Surveyors and three Draftsmen, and, with the view of rendering the Department still more effective, a Deputy Surveyor General was added to the Establishment, which, including the other augmentation, consisted therefore of the following officers, vizt. :—

1 Surveyor General, 1 Deputy Do., 13 Assistant Surveyors,
4 Draftsmen, 2 Clerks—21.

Early in the year 1828, Mr. Oxley died, and was succeeded by Major Mitchell the present Surveyor General, upon whose further representations, and in consequence of an arrangement

* Note 24.

which took place in 1829 for placing the Department of the Roads and Bridges (which had hitherto been conducted by Officers of the Army) under the charge of the Surveyor General, five assistant Surveyors and two Draftsmen were added to the Establishment.

1833.
15 June.
Staff of
surveyor-
general's
department.

In 1830 the Services of the Commissioners, appointed by His Majesty in 1825 for apportioning the Colony, were dispensed with upon the representation of their inutility by the Surveyor General, whose Department, according to the latest Returns, consists of the following Officers, vizt.:—

1 Surveyor General, 1 Deputy Do., 4 Surveyors, 13 Assistant Surveyors, 6 Draftsmen, 4 Clerks—29
at an annual expence to the Public Treasury of £11,886 12s.

I have thus far endeavoured to shew that there has been no indisposition on the part of His Majesty's Government to meet the demands of the Public Service in reference to the Department of the Surveyor General, and I should have been happy were I enabled at the same time to prove that any corresponding result has followed from the heavy expenditure, which has been, and is still, incurred for the object, which so extensive an Establishment of Surveyors was intended to accomplish.

Although the King's Instructions, before adverted to, required that the Commissioners of Survey (one of whom was to be the Surveyor General) should transmit Reports, from time to time, to the Secretary of State, with explanatory Charts, etc., there appears to be nothing in the possession of this Department, by which the labours of the Commissioners of the Surveyor General or of the Officers under his orders can be estimated beyond a skeleton map of the chief points of a Trigonometrical measure (and this without Latitudes or Longitudes) of a small portion of the Colony, three or four plans of Roads, and a statement of the proposed natural Boundaries of the Counties; and even these Documents have not been sent in any official form, as directed by the King's Instructions.

Paucity of
reports on
progress of
survey.

This deficiency of information, on a subject to which so much importance is attached by His Majesty's Government, is the more unaccountable, the Surveyor General having, as I understand, represented in several communications, which he has addressed to this Department, that he had made considerable progress in the work, in which he had been engaged; nor has any explanation been given, why, of so many plans which he states that he has completed, and of such abundant information as he has collected, so small a portion of his labours should have been transmitted to this Department. The Surveyor General cannot plead, in his

No explanation
available of
deficiency.

1833.
15 June.

excuse for not sending home the documents required by the King's Instructions of 1825, that it was the duty of the Board of Commissioners of Survey to supply them, for he was not only first in the Commission, but, as I have before stated, the Commission itself was, on his representation of its inutility, abolished in 1830, and its whole duties transferred to the Surveyor General.

Instructions
re subdivision
of colony.

It appears from the general tenor of His Majesty's Instructions, above referred to, that a general Survey and valuation of Lands throughout the Colony, and the Political subdivision of the Territory into Counties, Hundreds, Parishes, etc., was to be undertaken by the Commissioners, commencing with those Lands, which were already in the occupation of Settlers, or which were not yet located within the District to which the Settlers were limited in their choice of selection.

Instructions
misunderstood
by surveyors-
general.

These Instructions seem to have been misunderstood both by the present Surveyor General and his Predecessor, as authorizing if not requiring him to proceed immediately to construct a Trigonometrical Survey of at least the whole Colony. A scientific operation of great difficulty, and requiring much more time and labor than would be necessary for the execution of a survey of the nature of that, which it was the wish of His Majesty's Government, should, in the first instance, be undertaken, and which ought to have been limited to purposes connected with the location of Settlers, with the projecting of the requisite Roads and proper lines of communication between the different parts of the inhabited Districts, and with the fixing of the Boundaries of the respective Grants.

Labouring under this apparent misapprehension of the King's Instructions, the Surveyor General, in several communications addressed by him to this Department, complains that his close official attendance on duties at Sydney interfere too much with the Trigonometrical Survey, which appears to be his first object; and towards the completion of which it is evident that he has already devoted a considerable portion of his time and labour at the expence of other objects of more immediate importance.

The inconvenience of such misapplication of the exertions of the Surveyor General and of a large portion of the services of the Officers of his Department, appears to have been brought under the notice of my Predecessor by General Darling, who in his despatch of the 13th of May, 1828, expresses himself upon this subject as follows:—

“ This proceeding, while it forwards the general survey, will, of course, interfere with the immediate location of Lands by

withdrawing a portion of the Surveyors from this object, and may occasion some dissatisfaction amongst the Settlers, who generally complain of the inconvenience they experience from the circumstance of not receiving their Title Deeds, which cannot be made out, until their Farms have been measured; and it will further have the effect of preventing the Government collecting the Quit Rent on the unsurveyed Grants for a proportionately longer period."

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15 June.
Criticism by
R. Darling.

Now, whatever may be the ultimate advantages of the Trigonometrical Survey, it is evident that they are inferior, in point of urgency at least, to the duties mentioned in the foregoing quotation. And my Predecessor, in authorising the Establishment of Surveyors to remain for the present upon its augmented scale, whilst he contemplated considerable reductions in the other Departments of your Government, did so, I can safely affirm, for the express purpose of accelerating the objects referred to by General Darling, as well as by the Commissioners of Colonial Enquiry, who, in their Report to the Lords Commissioners of the Treasury, dated the first day of Nov., 1830, express the opinion, "that a general Survey of the Lands, intended for the Location of free Settlers, should be completed with as little delay as possible. Proper Land marks should be set up for the Boundaries of each Parish, and, in order that the grant to each new Settler may be clearly defined and known, the several allotments should be valued and registered previous to appropriation."

Objects in
maintaining
large staff for
surveyor-
general.

Under these circumstances, I cannot conclude this despatch without observing that, although it is not within the province of the Secretary of State to point out, in detail, the precise nature of the services, to which the labors of the Surveyor General's Department should be directed, or the mode by which such services could be the most efficiently performed, yet, from the very imperfect and scanty information possessed by this office, respecting the settled part of the Territory, and the frequency of the complaints, which have reached this Country of the slow progress made in defining the extent and limits of the respective properties of many of the Settlers, I have to convey to you His Majesty's Commands that you lose no time in calling upon Major Mitchell to explain the causes of the delay, which have taken place in sending Home the results, which might be expected from his known scientific acquirements and from the extent of the Force employed under his directions, and to furnish you with the name of all those Persons belonging to his Department, whom he considers essentially necessary to the efficiency of this Branch of the Service, and at the same time to transmit a detailed

T. L. Mitchell
to submit
explanation.

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15 June.

Staff to
be reduced.

Report as to the mode, in which he would recommend their duties to be hereafter apportioned with a view to their more complete discharge. You will, upon this Report, adopt measures for immediately reducing all those, who may not be included in the Surveyor General's List. I am aware that this Instruction cannot be acted upon, without interfering most materially with the Interests of the Parties whom it may affect; but I feel assured that they will not be left wholly destitute of Employment, if it shall be in your power, consistently with your duty to the Public, to provide for them in a capacity, for which they may be better suited than they were for that which they originally held.

Authority to
fill vacancies.

I have only further to direct you, in the event of your being of opinion in concurrence with your Council that the number of Surveyors, remaining after the removal of some of those at present employed, will not be adequate to the demands of the service, to proceed without further orders from Home in filling up as many of the Vacancies thus created as may appear to be indispensable by the appointment to them of any Persons, residing in the Colony, who may possess the requisite qualifications.

I am, &c.,

E. G. STANLEY.

GOVERNOR BOURKE TO LORD FITZROY SOMERSET.
(Despatch No. 9, per ship Adventurer.)

18 June.
Despatch
acknowledged.

My Lord,

Government House, 18th June, 1833.

I have been honored by Your Lordship's letter of the 19th November last conveying the instructions of the General Commanding in Chief for encreasing the Military Force at Swan River by detaching there another Company from the Regiment last arrived in New South Wales.

Company of
21st regiment
detached from
Tasmania for
Swan river.

Understanding by the words New South Wales the whole of this Command including Van Diemen's Land, and regarding the convenience of the Service, it would follow that the additional company should be taken from the 21st Royal North British Fusileers, being the Regiment last arrived and now stationed in Van Diemen's Land. I have accordingly directed Colonel Arthur to detach the additional Company with the relief for the Company of the 63rd now on duty at Swan River. From the representations formerly made to me by Colonel Arthur of the insufficiency of the Force then proposed to be stationed in Van Diemen's Land, and which it has not been in my power since to augment, I am very apprehensive that this diminution of the small force under his orders will not be effected without greatly

1833.
18 June.

Deficiency of
military force
in Tasmania.

endangering the safety of His Majesty's Subjects in that Colony. I have not been able to leave there more than one Regiment of the three allotted to this Command. From that Regiment, one Company is already detached to Swan River, eight Companies only remaining for the Service of Van Diemen's Land, which the Detachment now ordered will reduce to seven. That Your Lordship may perceive what that Service is and the opinion which the experience of Colonel Arthur has led him to form as to the extent of the Military Force required for Van Diemen's Land, I have the honor to enclose a copy of his letter of the 3rd March, 1832, on this subject. Tranquility has prevailed in the Colony since that date, but the number of Convicts has materially increased and the general call for Military protection has not in any respect diminished.

I should further endeavour to satisfy the General Commanding in Chief that No part of the two Regiments, which I retain for the service of this Colony and of the Penal Settlements at Norfolk Island and Moreton Bay, can with propriety be spared either for Van Diemen's Land or Swan River. By the accompanying State, it will be seen that, of the whole Force amounting usually to about One thousand, three hundred and fifty Men, not more than Five hundred Rank and File can be kept together at Sydney where there is a population of not less I should imagine than twelve thousand souls, of whom by far the greater part of the male adults are either Convicts or persons lately emerged from Servitude. Over the whole of this large Colony, extending from Sydney above One hundred and fifty Miles in every direction, are scattered Convicts in the Service of the Settlers, whose numbers have for some years past been increased by about three thousand five hundred annually. Those Persons whether in the Convict state or when released from Servitude form a class of inhabitants requiring close attention. Many of the Convicts are at large as Marauders; and, but for the vigilance and activity of One hundred Rank and File taken from the Regiments to form the Mounted Police, both life and property would become insecure. This police, which is necessarily very much dispersed and frequently in the Field, requires to be supported by Detachments at fixed stations, which as the Colony extends must be increased in number. The Convicts in Irons kept to labor on the roads within the Colony amount to near seven hundred, and require strong Military Guards, whilst at Norfolk Island and Moreton Bay convicts of the worst description, in number about Six hundred at the former and Seven hundred at the latter place, demand the presence of Two hundred and thirty Rank and File to keep them in subjection. In Sydney, the Troops have usually

Inability to
detach
reinforcements
from New
South Wales.

Necessity for
military
protection.

Employment
of military as
mounted police.

Military guards
for iron gangs
and at penal
settlements.

1833.
18 June.
Severity of
military duties.

but two nights in bed; and, tho' I form this Garrison from one Regiment only, with a view of keeping that Regiment as much as possible together, the Commanding officer has but little opportunity of exercising his Men in Field Movements, the Guards and Escorts constantly requiring a large proportion for Duty. On the detached stations, the Service is severe and the accommodation for the Troops but very indifferent.

Necessity for
additional
regiment in
colonies.

From this Statement, The General Commanding in Chief will I hope see the necessity of allotting another Regiment to this Command to enable me to strengthen the Force in Van Diemen's Land, and keep up an additional Company at Swan River. The necessity for augmenting the Military Force in these Penal Colonies, where the number of Convicts continues to be increased by annual arrivals in large bodies, would have been brought under notice at an earlier period after my arrival in New South Wales, if I had not some reason to suppose that the importation of Convicts would have considerably diminished or ceased altogether. But, as this does not now seem likely and as nearly Four thousand male Convicts reached this Colony in the last year, it becomes my paramount duty to represent to the General Commanding in Chief the necessity for adding to the Military Force in this Command.

Request for
artillery,
engineer officer
and staff
surgeon.

I take this opportunity of bringing again under Your Lordship's consideration the advantage of sending out a small Party of Artillery as mentioned in my letter of the 7th March, 1832, No. 5, and to repeat the Requisition for carriages for the Field Guns now lying useless in the Store. I would also add my perfect conviction that the employment of an officer of Engineers to superintend the construction and repairs of Military and Convict Buildings and a Staff Surgeon to regulate the expenditure of Medical Stores would be productive of considerable saving of expense to the British Treasury.

I have, &c.,

RICHD. BOURKE, M. Genl.

[Enclosure No. 1.]

LIEUT.-GOVERNOR ARTHUR TO GOVERNOR BOURKE.

Government House,

Van Diemen's Land, 3rd March, 1832.

Sir,

I have the honor to acquaint Your Excellency that, in consequence of your instructions through the Military Department, the excess of the 4th Regiment beyond two Companies has been this day embarked on board the "Elizabeth," together with the detail of the 17th Regiment. The Detachment of the 57th Regiment is in Barracks at Hobart prepared to proceed to India so soon as the

Departure of
troops from
Tasmania.

Transport which I was led to expect many weeks since shall arrive, and one of the two Companies of the 4th Regiment remaining in Van Diemen's Land and stationed at Launceston has been ordered to be held in readiness for immediate embarkation.

1833.
18 June.

Every reduction directed through the Military Department will, of course, be immediately complied with; but it is my duty to represent that the Company of the 4th Regiment under orders cannot be withdrawn without imposing a most severe duty upon the Soldiers remaining in Van Diemen's Land, and without decreasing the protection of the inhabitants of the Colony to a degree, which, if it can be avoided, is not reconcilable with prudence.

Objections to
reduction of
military in
Tasmania.

For, although upon the whole the Convicts are extremely subordinate, and although the most hostile of the Aborigines have been conciliated, and the most implacable Tribe is removed to Flinders Island, yet it is impossible not to feel how much we are indebted in both these respects to the countenance given by the Military stationed in the Interior to the Civil power, and how very soon the state of things may alter, if that countenance be sensibly affected.

Your Excellency is aware that, from Van Diemen's Land having been formerly the Penal Settlement of New South Wales, we have a large proportion of turbulent and disorderly convicts, and of still worse characters, men who have been convicts; and your experience will already have suggested that Military parties judiciously established in the Interior of the Country can alone put down "Bushranging," and give confidence to the Settlers in keeping their Convict Servants in a state progressing towards reformation, which mainly consists in their refusing to suffer the indulgence of those vicious propensities, which when checked invariably render the Convicts, for a Season, very dissatisfied.

Character of
convicts in
Tasmania.

Advantage of
military parties
in interior.

For the various duties incident to a convict colony, two Regiments would only be a force adequate for the service of Van Diemen's land, the one to be stationed at Hobart, furnishing the detail for the Penal Settlements, chain-gangs and districts on the South side; and the other stationed at Launceston, affording the like protection in all the Northern Districts, and extending to the Establishments* of the Van Diemen's Land Company, where, although my attention has been drawn to the subject two or three times by the Secretary of State at the intercession of the Directors, I have not yet been able to detach any Military party.

Two regiments
required in
Tasmania.

Whilst I have upon this occasion felt myself called upon, no less from the duty which I owe to His Majesty's subjects residing in this Colony to provide to the utmost for the security of their lives and properties, than from the desire to render Transportation as effectual a punishment as possible, to represent the Military protection which in my judgment is necessary for the Territory of Van Diemen's Land, I am well aware it is not in Your Excellency's power to detach so large a force from the exigencies of New South Wales; and, assured that all will be done for us that is consistent with other pressing demands throughout the command, every arrangement will continue to be made to supply the want of Troops in Van Diemen's Land by such expedients as are within the means of the Civil Government.

I have, &c.,
GEORGE ARTHUR, Lieut. Governor.

* Note 25.

[Enclosure No. 2.]

STATE and Distribution of the Troops Serving in New South Wales.
Head Quarters, Sydney, 26th June, 1833.1833.
18 June.State and
distribution
of troops.

		Lieut. Colonels.	Majors.	Captains.	Subalterns.	Staff.	Serjeants.	Drummers.	Rank and File.	Distance of Station from Headquarters.			
										Miles.			
4th or K. O. Regiment	Present for duty at Sydney (Head Quarts.)	.....	1	2	4	12	5	32	11	519	904	
		Sick do				1				1		19	
	Absent at	Norfolk Island			1		2	1	5	1		120	
		On Staff Employ.....			1								
		In Civil Employ, V.D's Land.....			1								
		With leave				1							
	Mounted Police			1				1		53			
	Effective		1	2	8	16	6	38	13	711			
	17th Regiment	Present for duty at Parramatta Hd. Qrs.	1	1	2	4	5	20	8		209	16 500 93 37 75 200 136 36 20 100 90 266 7
			Sick do							1		1		15
Absent at		Morton Bay			1	2		3			92		
		Cox's River			1	1		3			73		
		Emu Plains			1	1		2			60		
		Newcastle				1		2			42		
		Port Macquarie				1		2			33		
		Bathurst	1			1		1			31		
		Windsor				1		1			24		
		Liverpool				1		1			20		
		Port Stephens				1		1			12		
		Bong Bong				1		1			12		
		Wellington Valley						1			6		
		Longbottom.....									7		
		With leave				1	1						
		In Civil Employ				1							
		Mounted Police					2				53		
Effective.....		1	2	9	16	5	39	9	689				
General Total Effective...		2	4	17	32	11	77	22	1400				

RICHD. BOURKE.

RIGHT HON. E. G. STANLEY TO GOVERNOR BOURKE.

(Despatch No. 18, per ship Aurora.)

22 June.

Sir,

Downing Street, 22d June, 1833.

Despatch
acknowledged.

I have had the honor to receive your Despatches No. 82 of the 24th August and No. 106 of the 2d October last, reporting the course which you adopted on the occasion of a dispute between Mr. John Bingle and Mr. H. C. Sempill, Magistrates of New South Wales.

Approval
of action of
R. Bourke.

A perusal of the papers, which you have sent home, has satisfied me that there is no ground for complaint against you, and that the manner in which you disposed of the case deserves my entire approval. You will have the goodness to inform Messrs. Bingle and Sempill that the indulgence in controversies of this

nature is highly unbecoming the Offices which they fill, and that a recurrence of them will not fail to bring the Colonial Magistracy into contempt.

1833.
22 June.

I cannot pass over, without notice, the objectionable conduct of Mr. Bingle in availing himself of Mr. Pike's visit to his house to punish his assigned Servants, as well as in publishing to the World a letter* which he thought proper to address to the Secretary of State, before he had received an answer to it, and even before it had been received by the Secretary of State. You will express to Mr. Bingle my hope that I shall not again have occasion to comment upon transactions so irregular and improper as appear, by the documents you have sent home, to have taken place between himself and Mr. Pike, his Brother Magistrate; and that he will, in future, recollect the courtesy which is due to a Minister of the Crown, should circumstances require his communicating further with this Department. I am, &c.,

Censure passed
on J. Bingle.

E. G. STANLEY.

RIGHT HON. E. G. STANLEY TO GOVERNOR BOURKE.
(Despatch No. 20, per ship Aurora.)

Sir,

Downing Street, 24th June, 1833.

24 June.

I have to acknowledge the receipt of your Dispatch No. 116 of the 20th November last, enclosing an application from the Archdeacon of New South Wales to be permitted to return to Europe for the purpose of bringing under the notice of His Majesty's Government the general condition and prospects of the established Church as connected with that Colony, and of affording such personal explanations as he deems to be necessary with a view to its stability and efficiency.

Despatch
acknowledged.

Having submitted to The King the representations upon which the Archdeacon's Application for Leave of absence is grounded, I have now to acquaint you that His Majesty has been graciously pleased to acquiesce in the request of the Archdeacon, and His Majesty trusts that the Arrangements, which may be made for the due administration of the Affairs of the Archdeaconry, will prevent the possibility of any inconvenience being felt by the Clergy, or of the interests of the Church suffering, during Mr. Broughton's temporary Absence from the Colony.

Leave of
absence for
Rev'd. W. G.
Broughton.

Although the Regulations relating to the receipt of Half Salary by all public officers during their absence from their duties are now so generally understood in the respective Colonies as to render it almost unnecessary for me to allude to them in reference to the present case, yet, as it is possible that the Archdeacon may,

Half salary to
be paid during
absence.

* Note 26.

1833.
24 June.
Half salary to
be paid during
absence.

under the circumstances which have induced him to express the desire of proceeding to England, conceive that an exception would be made in his favor from the general rule, which has been laid down in this respect, I am anxious that you should explain to him, before he embarks, that I shall not feel myself at liberty to sanction his receiving any allowance beyond that of half his present Salary from the date of his quitting the Colony until his return to it, nor must he expect any portion of the Expences on account of his Passage, either to or from this Country, to be defrayed at the public charge.

I am, &c.,
E. G. STANLEY.

RIGHT HON. E. G. STANLEY TO GOVERNOR BOURKE.
(Despatch No. 21, per ship Aurora.)

25 June.
Death of Revd.
G. Innes.

Sir, Downing Street, 25th June, 1833.
I have received your Despatch No. 119 of the 23d November last, communicating the death of the Revd. George Innes, Master of the King's School at Sydney, and reporting upon the state of the Public Schools in the Colony.

Delay in
appointment
of successor.

In consequence of the little success, which appears to have attended the establishment of the King's School at Sydney, I shall defer taking any steps for supplying a successor to Mr. Innes, until I shall have had an opportunity of conferring with Archdeacon Broughton on the subject, when he returns to this Country.

I am, &c.,
E. G. STANLEY.

RIGHT HON. E. G. STANLEY TO GOVERNOR BOURKE.
(Despatch No. 22, per ship Aurora.)

26 June.
Despatches
acknowledged.

Sir, Downing Street, 26th June, 1833.
I have to acknowledge the receipt of your Despatches, enumerated in the margin,* as well as of your letter to my Under Secretary of the 5th July last.

Confirmation
of dismissal of
Rogers and of
appointment of
D. Lennox.

The Instructions, which I have conveyed to you in my Despatch No. 17 of the 15th Instant, render it unnecessary for me to do more, with respect to your Despatch No. 4, than to confirm the removal of Mr. Surveyor Rogers, and the appointment of Mr. David Lennox with a Salary of £120 as Superintendent of Bridges under the Surveyor General.

If you are still satisfied that it is necessary to increase at once Mr. Halloran's Salary as second Clerk to the Surveyor

* Marginal note.—No. 4, 4th Jany.; No. 8, 16th Jany.; No. 13, 23d Jany.; No. 17, 2d Feby., 1833.

General from £120 to £150 per Annum, in consequence of the report made in his favor by that Officer, I shall not object to your doing so; but I should prefer the principle, which has been adopted in other cases, of conferring this benefit by an increase of £10 annually, until Mr. Halloran's salary reaches £150, commencing from the 1st January last.

1833.
26 June.

Increase of
salary for
H. Halloran.

The reason, assigned by the Superintendent of Convicts for the delay in transmitting the Nominal Return of Convicts in New South Wales, is satisfactory so far as regards any neglect of duty on his part, the censure passed upon him by my Predecessor, in consequence of this Document not being sent home, having proceeded, as I have reason to believe, from an impression that it formed a part of his particular duty.

Acceptance of
explanation by
F. A. Hely.

It appears, however, from his statement that this Return has never been prepared in his Office, and that, although the importance of a correct List of all the Convicts with the names of the places, where they are stationed, could not but be apparent, none has been kept either in his or in any other Department, from which the Return, which it is so necessary should be sent home periodically, can be prepared. I have, therefore, to desire, in case the Return upon which the Superintendent of Convicts is now employed, cannot be completed with the accuracy which is requisite, without a fresh Muster of the Colony, that you will cause that step to be immediately taken; and, if it should be necessary, you are at liberty to incur a reasonable expense for the purpose. The Office, which should be the depository of the Convict List, when thus compiled, and with which should rest the responsibility of preparing the periodical Returns required to be sent to this Country, would seem to be that of the Superintendent of Convicts; but, if it should be your opinion that the Colonial Secretary (from whose Office this information was formerly supplied) or any other Public Officer would be better able to attend to this matter, without adding to the number of Clerks attached to his Department, you will transfer to him that duty, keeping in view the regular transmission to this Country, every third year, of a Return of all the Convicts in the Colony, corrected up to the latest period at which it may leave New South Wales.

Muster to be
taken if
necessary.

Custody of
register of
convicts.

The claim of Lieutt. Caswell, R.N., to an additional Grant of 590 acres, free of Quit-Rent, cannot be admitted. You will, therefore, intimate to him that he will not be allowed to occupy the Land upon those terms. As the sum in question is, however, so trifling as to render its collection inconvenient, it may be

Refusal of
request from
W. Caswell.

1833.
26 June.

advisable to afford Mr. Caswell the option of redeeming the Quit-rent upon the principle formerly adopted, should he prefer that course.

Compensation
for J. H. Reibey
and J. Atkinson.

I have to approve of the communication addressed by you to Colonel Arthur, respecting the Grant to Messrs. Reibey and Atkinson of the Land awarded to them by General Darling, in consideration of the piratical seizure of their Vessel by Convicts.

I am, &c.,

E. G. STANLEY.

GOVERNOR BOURKE TO VISCOUNT GODERICH.

(Despatch No. 53, per ship Adventurer.)

27 June.

My Lord, Government House, 27th June, 1833.

Military to
be sent from
Tasmania to
Swan river.

Having received orders (with Your Lordship's approval) from the General Commanding in Chief to detach another Company from the Troops under my Command to augment the Force at Swan River, I have accordingly instructed Colonel Arthur to send two Companies of the 21st Regiment to that Colony, when the Company of the 63rd now there is ordered on to India. This detachment will render the Military Force under the orders of Colonel Arthur insufficient, as I apprehend, for the protection of the King's Subjects in Van Dieman's Land; and it will be impossible for me to reinforce him from hence without exposing the Free Inhabitants of this Colony to considerable danger, if the numerous Convicts now Scattered over it should entertain any mischievous designs. I have represented these matters in detail to the General Commanding in Chief, and have the honor to enclose a Copy of my letter to the Military Secretary on this subject. To this, I beg Your Lordship's early attention, feeling it my duty to urge an immediate compliance with the application it contains for additional Military Force for the protection of the Colonists of New South Wales and Van Dieman's Land. I need hardly remind Your Lordship how much more necessary it is to keep up a Military Force in Colonies peopled as these are, than at Swan River where internal commotion is not to be dreaded, and where it might be prudent and safe to place arms generally in the hands of the Settlers for their defence against attack from without, a measure which could not be generally resorted to in these Colonies.

Insufficiency
of troops in
Tasmania.

Request for
additional
military force.

I have, &c.,

RICHD. BOURKE.

[Enclosure.]

[A copy of this letter will be found on page 146 et seq.]

GOVERNOR BOURKE TO VISCOUNT GODERICH.
(Despatch No. 54. per ship Adventurer.)

1833.
29 June.

My Lord, Government House, 29th June, 1833.

Having laid before the Legislative Council of this Colony on the 14th Inst., as directed by Your Lordship's Circular Despatch of the 4th March, 1832, Estimates of Expenditure for the year 1834, they have been considered and in part voted within these few days past; but, as there still remain several matters requiring further investigation, some time may elapse before an Ordinance for the appropriation of the Revenue will be ready for transmission. At that period, the Season will probably have arrived, at which Vessels rarely leave New South Wales for England, and some inconvenience may be felt in Your Lordship's Office by an unavoidable delay in transmitting the Ordinance. I therefore think it right to avail myself of the opportunity of a Ship now about to sail to forward to Your Lordship a printed Copy* of the Estimates, together with the Abstract of Revenue and Expenditure for the year 1832, and some other Papers which have been laid before the Council, elucidating the circumstances of the Colony principally in matters of finance, of which papers Your Lordship may be able to make use in the event of the more regular documents being delayed in the manner I have described.

Estimates of expenditure considered by legislative council.

Transmission of financial statements.

There can be no important difference in the amount of Expenditure, as detailed in the accompanying Estimates, and that which will be appropriated by the annual ordinance.

Having yesterday received Your Lordship's Despatch of the 12th December last, No. 145, I beg leave to take this opportunity of replying to those observations contained in it, which have reference as well to the Expenditure for the year 1832, then under Your Lordship's consideration, as to that for the present year and that now proposed for 1834.

Despatch acknowledged.

In obedience to Your Lordship's Instructions, I will immediately discontinue the payment of Salary to the two Officers charged with the duty of assigning Convicts to Service. I must however remark that the duty is both troublesome and invidious, and such as seems fairly to claim a portion of the Colonial Revenue to provide for its due administration. In the appointment to the Assignment Board of Mr. Hely, the Principal Superintendent of Convicts, I believe my Predecessor considered the principal Office held by that gentleman to be underpaid, and gave him the additional employment to make up his emoluments to something more nearly approaching a fair remuneration for his services. As the Salary is now to be taken away, I shall find

Abolition of salaries for members of assignment board.

* Note 27.

1833.
29 June.

Inquiry re
tunnel for
water supply
for Sydney.

it expedient to remove Mr. Hely from the Board, and to appoint in his place an officer less burdened with constant and responsible duty. I had considered the expence and delay in the construction of the aqueduct or Tunnel,* which have excited Your Lordship's attention, and had appointed a Committee of the Legislative Council to enquire and report. The Committee is now engaged in this business, and the Vote for the Service of the Tunnel has not yet been brought forward. A considerable expenditure will still be required, and I hardly think the services of Mr. Busby can as yet be dispensed with.

The person charged as a Second Crown Solicitor is the Mr. Garling, to whom Your Lordship alludes; he has been improperly continued on the Schedule under the designation of Crown Solicitor. Your Lordship will find him on the Estimates for 1834 as Clerk of the Peace, the duties of which office he has for some years performed on a Salary of £400 a year and an additional allowance of £100 a year for conducting prosecutions in the Stead of the Attorney General, whose attendance at Quarter Sessions it would be both expensive and inconvenient to require. Probably on the Institution of Grand Juries, this allowance may be discontinued. I should indeed consider Mr. Garling as overpaid, did I not yield to the General impression that he as well as Mr. Moore came out under conditions of receiving an annual income of £300 a year, each without any Stipulation for the performance of any special duty.

Employment
of F. Garling.

With regard to Mr. Macpherson's Clerks, I trust Your Lordship will not object to the additional expenditure of the present year over that of the last, nor to the same as proposed for the next, when I express my firm conviction that there is at present full employment for all the persons engaged, and that the public service would suffer by diminishing the number. The Collector is still engaged in calling in the Sums due for the purchase of Crown Land and the debts of individuals for Cattle sold, corn furnished, and monies advanced by former Governments. Several of these matters no doubt ought to have been placed in the hands of the Commissariat, as the amount when recovered will be paid into the Military Chest; but, as Mr. Macpherson has commenced suits for the recovery of several of these debts, he cannot be withdrawn without great inconvenience. But, independently of this duty, that which arises from the constant attention which is required to get in the large amounts still due on the Sale of Crown Land, and that for arrears of Quit Rent, gives constant occupation to the Collector and his Establishment. I will not lose sight of Your Lordship's desire to reduce this Department

Clerks
employed under
collector of
internal
revenue.

* Note 28.

altogether, when an opportunity offers; but at present it would be impossible to impair its strength without prejudice to the public interests.

1833.
29 June.

Your Lordship will perceive on the Estimates for 1834 a large increase to the charge for Roman Catholic Chaplains, Schools and Chapels. It could not be less without neglecting the religious instruction and education of the numerous and poor Persons of this persuasion in this Colony. The numbers are annually increasing by fresh arrivals from Ireland; and, with increased numbers, Your Lordship will naturally anticipate an increased charge.

Increase in vote
for R.C. church.

I am happy to find Your Lordship approves of the manner, in which I endeavoured to put the appropriation of the Colonial Revenue upon a regular footing. More remains to be done for the perfect separation of the expenditure properly chargeable to the Colony and that which is to be defrayed by the Military Chest. I am using my best exertions to complete these arrangements, as well as to reduce every description of expense, which I feel myself in any way authorized by Your Lordship's Instructions to attempt. Your Lordship will perceive that I propose some considerable reductions in the Colonial Secretary's Office and Surveyor General's Department for the year 1834; and I may probably in a short time have some further reductions to submit in other branches of the Colonial and Convict Establishments.

Appropriation
of revenue.

Reductions in
departments.

I have, &c.,

RICHD. BOURKE.

GOVERNOR BOURKE TO UNDER SECRETARY HAY.

(Despatch per ship Adventurer.)

My dear Sir,

Govt. House, Sydney, 29 June, 1833.

I take the opportunity of a Ship now proceeding to England to acquaint you that I have received Lord Goderich's despatches to No. 150 inclusive with the exception of No. 122, which has not appeared either in original or duplicate and is I apprehend at Ceylon. In the mean time, we are without any Order in Council for a Circuit Court and without any communication on the Jury system, which from Lord Howick's observations in Parliament the Colony has been led to expect. I am about to propose a Jury Bill immediately; but it will be limited to the points on which I was entrusted on leaving England and will omit the Grand Jury altogether. I shd. have been ready to introduce both at once, If I had thought myself at liberty. I enclose a copy of the Votes and Proceedings of the Leg. Council on the 27th May, which contain what I thought it necessary to say on the subject.

Despatches
received.

Want of order-
in-council for
circuit court.

Proposed
jury bill.

1833.
29 June.
Want of order-
in-council for
dissolution of
church
corporation.

In Lord Goderich's despatch of the 25th December last, No. 148, it is stated that an Order of the King in Council will be immediately passed for abolishing the Church Corporation, and in that of the 26 December, No. 149, the order* in Council is said to have accompanied the despatch of the 25. It has not however arrived.

I have forwarded to Lord Goderich by this opportunity such Papers as will enable His Lordship to make up the Colonial Budget for 1834 as far as relates to N. S. Wales, even tho' the formal Act of appropriation shd. be delayed for want of conveyance from home in our winter season. I am, &c.,

RICHD. BOURKE.

[Enclosure.]

[*This was a printed copy of the votes and proceedings of the legislative council for 27th May, 1833.*]

UNDER SECRETARY HAY TO GOVERNOR BOURKE.

(Despatch per ship Aurora.)

3 July.

Sir,

Downing Street, 3d July, 1833.

I am directed by Mr. Secretary Stanley to transmit to you the enclosed copy of a letter from the Church Missionary Society, on the subject of the payment of the sum of £500 appropriated to the maintenance of the Mission to the Aborigines of New Holland; and I am to desire (unless you should have done so since the date of your Despatch, No. 71, of the 5th August last) that you will issue to the Agents of the Society the sum of £166 13s. 4d. on account of the half salary of the Missionaries, which the Secretary of State agreed to allow them from the date of their embarkation till their arrival. You will, of course, require the usual Certificates as to the actual date of embarkation. I am further to desire that you will issue to the same parties the full salary of the Revd. J. C. Handt, at the rate of £250 from the date of his arrival till he was joined by his co-adjutor, when the payment of the whole Grant commenced, as stated in your abovementioned Despatch. I am, &c.,

R. W. HAY.

[Enclosure.]

REVD. D. COATES TO RIGHT HON. E. G. STANLEY.

Sir,

Church Missionary House, 20th May, 1833.

In the beginning of the year 1831, an arrangement was entered into between Viscount Goderich and the Committee of the Church Missionary Society, by which the Society undertook a Mission to the Aborigines of New Holland, for the support of which His

* Note 29.

Instructions
re payment
of salary to
missionaries.

Majesty's Government engaged that a Grant of £500 per annum should be assigned out of the Colonial revenues of New South Wales. Some correspondence ensued between Lord Howick and myself, with reference to the period at which the said Grant should commence; and it was settled, by Lord Howick's Letters of Feby. 10th and 18th. 1831, that the payment of the entire sum of £500 per annum for the support of the Mission should commence from the period of the Missionaries' arrival in the Colony; but that therefore of half salary should be authorised to each Missionary, from the date of his embarkation, calculating the voyage at four months. From a letter recently received from the Revd. Richard Hill, the Secretary of the Society's Corresponding Committee in New South Wales, it appears that His Excellency Major General Bourke had not received any distinct Instructions on the subject from His Majesty's Government for the payment of the money, and in consequence had not made the stipulated payments on account of the grant to the Society's Representatives in the Colony. I am therefore directed by the Committee to request that you will be pleased to direct that the Revd. J. C. S. Handt's half Salary may commence from Feb. 12/31, the day on which he embarked at Portsmouth for New South Wales, amounting to £3 6s. 8d.; that the payment of £250 one moiety of the grant may commence from July 4/31, the date of his landing at Sydney; that the payment of the half salary of the other Missionary, the Revd. Wm. Watson may commence from Oct. 15/31, on which day he embarked at Gravesend, amounting to £3 6s. 8d., and that the payment of the other moiety of the grant may commence from May 1/32, the date of Mr. Watson's landing at Sydney.

I have, &c.,

D. COATES, Sec., C.M.S.

1833.
3 July.

Arrangements
re payment of
grant to
mission to
natives.

Request for
payments.

GOVERNOR BOURKE TO UNDER SECRETARY HAY.

(Despatch per ship Alice; acknowledged by under secretary Hay, 10th November, 1833.)

Sir,

Government House, 3 July, 1833.

My attention having been lately been drawn to the hours of Attendance required from Clerks in the Public Offices in this Colony with a view to a reduction of the number now employed in some of the Departments, I desire to refer to a letter from the Under Secretary of State, dated 27 November, 1828, marked Private, to which allusion is made in some of General Darling's Minutes upon this subject. Having failed in discovering this letter,* which appears by some accident to have been mislaid; and, being desirous of knowing the wishes of H. Majesty's Government relative to the Hours of attendance to be required from Clerks in Colonial Public Offices, I have the honor to request you will direct a Copy of this letter to be transmitted to me.

Request for
letter re hours
of attendance
for clerks in
public offices.

I have, &c.,

RICHD. BOURKE.

* Note 30.

1833.
3 July.

GOVERNOR BOURKE TO UNDER SECRETARY HAY.
(Despatch per ship *Alice*; acknowledged by under secretary Hay,
10th November, 1833.)

Sir,

Government House, 3d July, 1833.

Despatch
acknowledged.

I have the honor to acknowledge the receipt of your letter, dated 2nd October, 1832, directing me, by Command of Viscount Goderich, to bring under the notice of the Executive Council an application from Mr. James King, soliciting some Reward for the discovery of a description of Sand in this Country adapted for the manufacture of Flint Glass, and further desiring a Report as to the amount of remission money in the purchase of Land, which might be considered an adequate remuneration for his services.

Reward
proposed by
executive
council for
J. King.

Dissatisfaction
at amount of
reward.

In obedience to these Instructions, I submitted Mr. King's application to the Executive Council, who, after enquiry and examining Mr. King, were of opinion that the Sum of £100, given as directed by the Secretary of State in remission of the purchase money of Land, would be a sufficient acknowledgement of the benefit his discovery might render the Colony. This decision having been communicated to Mr. King, I have received from him a Memorandum herewith enclosed, remonstrating against the amount awarded to him, which he states is insufficient to defray the expences incurred in making the experiment, and requesting that the Council would merely report the fact of his being the first discoverer of the Sand and leave the premium to be fixed in England. As, from the tenor of your Letter, I did not consider myself authorized to adopt the course proposed by Mr. King, I have informed him that I will communicate the substance of his remonstrance to the Secretary of State.

I cannot agree with Mr. King that the premium offered by the Council is insufficient with reference to the value of such Premiums as are usually awarded by Public Bodies; nor did Mr. King shew to the Council that he had incurred an expense of nearly £400 as asserted in the communication now forwarded or any other expense whatever. At the same time, I consider the discovery may be of considerable importance, if it shall be found profitable to take this Sand to England as an Article of Export, at however low a price, in lieu of useless Ballast.

Reply to
criticism *re*
domain at
Sydney.

With reference to the latter part of Mr. King's Memorial, enclosed in Your Letter of the 2nd October, which states the Desmesne in Sydney to be at present a place of concealment for runaway Thieves and Robbers, from whence they can with ease escape from the Colony, I can only state that I am not aware of any instance of an escape of this kind since my arrival.

Improper Persons have sometimes been found in the grounds, which are not however by any means extensive nor capable of affording much shelter. Mr. King has made sufficiently apparent his motive for putting forth so loose and exaggerated a Statement.

1833.
3 July.

Since writing the above, I have been requested by Mr. King to forward the accompanying Letter to the Secretary of State.

I have, &c.,

RICHD. BOURKE.

[Enclosures.]

[Copies of these two papers are not available.]

GOVERNOR BOURKE TO VISCOUNT GODERICH.

(Despatch No. 55, per ship William Stoveld; acknowledged by right hon. E. G. Stanley, 26th March, 1834.)

My Lord, Government House, 8th July, 1833.

8 July.

The Memorial, of which I have the honor to transmit a Copy, has been presented to me by the Reverend Dr. Lang, Senior Member of the Scots Church in this Colony. He applies for a grant of Land in reward of his exertions in bringing out from Europe to New South Wales a useful body of Mechanics and in compensation of pecuniary losses, which he has incurred by giving them employment at his own risk, immediately after their arrival. I am not only ready to admit but have much pleasure in recording the service, which Dr. Lang has rendered to the Colony by introducing some very useful and respectable artizans, from whose skill in their several trades and propriety of conduct and behaviour the Colony will be improved both in Arts and Morals. I did not, however, think it right to revert to the ancient practice, which has been found so liable to abuse, of granting or recommending to His Majesty's Government to grant Land or remission in the purchase money of Lands for such services; and I have informed Dr. Lang that, as the arrangement, under which the alleged loss has been sustained, was entirely his own, I did not consider him to have any substantial claim for reward or compensation from the government.

Transmission of memorial.

Request for land grant by Revd. J. D. Lang.

Services of Revd. J. D. Lang.

Objections to land grant.

Dr. Lang has, I understand, returned to Europe as well to settle his private affairs, which the expences attending the introduction of these Emigrant Mechanics has deranged, as to form another body of his country men of qualifications similar to the last whom he expects to direct to these shores. I apprehend he proposes to solicit the aid of His Majesty's Government towards the undertaking; and I should consider Dr. Lang's Services in

Reasons for visit to Europe of Revd. J. D. Lang.

1833.
8 July.

selecting proper Persons cheaply purchased by the payment of his expences, if he procures any considerable number of Persons to embark with their Families on the terms now offered by government.

Non-payment
of advances by
immigrants.

I will take leave to observe here with respect to those terms that the advances of twenty pounds, for which Notes are given in England and a more valid obligation in some cases obtained here, are with very few exceptions wholly unpaid, and that I apprehend in very few instances will the amount be recovered. Nevertheless the Balance of Revenue arising from the Sale and Rent of Crown Lands (from which these advances and all bounties on Emigration have been paid) will amount at the close of this year to nearly twenty thousand pounds. No charge for the ordinary expences of the Colony has been made on these sources of Revenue for the present year, nor is it contemplated for the next. From what has fallen from His Majesty's Ministers on the subject, it is the received opinion here that the proceeds of the Sale of Crown Lands under the existing regulations are pledged to assist respectable and useful Mechanics and Labourers with their Wives and Families and Young unmarried Women of good repute to Emigrate from the United Kingdom to New South Wales. In the selection of such Persons, I have reason to believe Dr. Lang may be usefully employed.

Revenue from
sale and rent
of crown lands.

I have, &c.,

RICHD. BOURKE.

[Enclosure No. 1.]

REVD. J. D. LANG TO GOVERNOR BOURKE.

Sir,

Sydney, 25th June, 1833.

Submission
of memorial.

I do myself the honor to request that Your Excellency will do me the honor to transmit and, if Your Excellency should think proper, to recommend to the Right Honorable the Secretary of State for the Colonies the accompanying Memorial.

I beg leave at the same time to State to Your Excellency that, in a letter which I had the honor to receive from my Lord Howick, of date "Downing Street, 19th January, 1831." His Lordship was pleased to express himself to the following effect:—

Promise of
subsidy for
stipend of
Presbyterian
ministers.

"I am directed by His Lordship (Lord Goderich) to acquaint you that he will authorise the Governor, in the event of the Presbyterian Settlers of any District in the Colony contributing from Sixty to one hundred Pounds a Year for the Support of a Minister of the Scotch National Church, to cause a Similar Sum to be paid from the Colonial Treasury, but that he will not feel himself at liberty to extend this assistance at present to more than two additional Clergymen."

Since the date of that letter the rapid advancement of the Colony, under Your Excellency's benign Administration, has rendered the provision for the Spiritual wants of the Presbyterians of

this Territory, which it authorises, altogether inadequate; and I beg therefore most respectfully to request that Your Excellency will be graciously pleased to recommend either to the Legislative Council or to the Right Honorable the Secretary of State the further extension of the indulgence so beneficently accorded by His Lordship to two additional Ministers, viz., one for the District of Argyle and one for the District extending from Patrick's Plains to the Source of the Hunter and its tributary Streams.

1833.
8 July.

Request for additional subsidies.

In the former of these Districts, I beg particularly to Mention the following Proprietors as both able and willing, in conjunction with various others, to contribute the Stipulated Amount for the Settlement of a Presbyterian Minister in that part of the Territory, Dr. Reid, Duncan McKellar, Esq., Messrs. Ryrie, McFarlane, etc.; and in the other District Messrs. Mudie, Larnack, A. and J. McDougal, Earle, Dodds, Forsyth, Greig, Cameron, Little, McIntyre, etc. have all expressed their willingness to come forward in the same way, provided a Minister were Settled either at Patrick's Plains or higher up, as the residence of a Minister at Maitland is of Comparatively little if of any Service to the Settlers in the upper District of the River.

Settlers willing to contribute towards stipends.

I have, &c.,

JOHN DUNMORE LANG.

[Enclosure No. 2.]

THE Memorial of John Dunmore Lang, D.D., Minister of the Scots Church, Sydney, New South Wales,

Memorial of Revd. J. D. Lang.

To the Right Honorable His Majesty's Principal Secretary of State for the Colonies, etc., etc., etc.,

humbly sheweth

That Your lordship's Memorialist, being in England during the Winter 1830 and 1831, when a very considerable degree of distress, arising from inadequate wages and the want of employment, prevailed among the agricultural and operative classes of the Mother Country, was induced, in consequence of having personally witnessed the very different circumstances of persons of the same condition in life in the Colony of New South Wales, to believe that many virtuous and industrious families of the Class of Mechanics in Great Britain and Ireland would, if provided with a free passage to that Colony, in the first instance be both able and willing to repay the amount thus advanced to them within a comparatively short period after their arrival by weekly instalments from the wages of their labor in the Colony.

Introduction of immigrants.

That, in pursuance of this idea, Your Lordship's Memorialist chartered the Stirling Castle of 350 (three hundred and fifty) Tons for the conveyance of Free Emigrants, of the description and on the conditions above mentioned, to New South Wales and arrived in the Port of Sydney on the 13th October, 1831, with One hundred adult persons almost exclusively Mechanics and their Wives and Children.

That the only encouragement, which His Majesty's Government afforded for the prosecution of this undertaking, was that a portion of a Loan* of £3,500 to be advanced by Government for the erection of the Australian College Building should be advanced immediately on his arrival in the Colony instead of gradually by instalments during the course of a few Months thereafter.

* Note 31.

1833.
8 July.

Introduction
of immigrants.

That, in consequence of the failure of all previous attempts of a similar kind in the Colony, arising chiefly as Your Lordship's Memorialist had reason to believe from a want of due attention in the selection of the Emigrant Mechanics to be conveyed to the Colony, as well as from a general desire on the part of their employers to over reach them in the Wages of their labor, a very general apprehension was immediately excited throughout the Colony that the experiment, in which Your Lordship's Memorialist was thus engaged, would also issue in disappointment, and Your Lordship's Memorialist was in consequence deprived in great measure of the Support of the Public for the Carrying on of the Public Buildings in which the Mechanics were employed.

That, in order to afford the interesting and important experiment which was thus in progress a proper trial by affording regular employment to the Emigrant Mechanics for a limited period after their arrival in the Colony, Your Lordship's Memorialist was under the necessity of disposing, at very great inconvenience and loss, of Private property in the Town of Sydney belonging to himself and to his family to the amount of upwards of £4,000 (Four thousand Pounds).

That the experiment, which was thus fairly tried, has proved in the face of this whole Colony and notwithstanding all apprehensions to the Contrary fully successful, the greater number of the free emigrant Mechanics imported by Your Lordship's Memorialist having already paid up the whole amount of their passage money by weekly instalments from the wages of their labor in the Colony.

That these Mechanics, having been designedly selected from all parts of Scotland in order that the accounts of the Colony they should send home should be more widely diffused in the Mother Country, have already been the means of inducing various other families and individuals of the same class and character in Society to emigrate to this Colony and have thus contributed materially to form the nucleus of a Class in Society previously almost unknown to the Colony, around which a population of a higher order in the scale of Morals has ever since been rapidly collecting.

That the Mechanics, thus imported by Your Lordship's Memorialist being almost all men of superior ability in their various departments of labor, have served materially to raise the Style of Architecture in all its branches throughout the Territory, and enabled the Government to erect buildings for public purposes at a much lower price and of a much superior character to those erected at an earlier period.

Your Lordship's Memorialist therefore most humbly solicits that, in consideration of the benefits accruing to the Colony from the importation of so many industrious and virtuous families and individuals as well as in consideration of the personal sacrifices and pecuniary loss it has entailed on Your Lordship's Memorialist, Your Lordship will be graciously pleased either to grant Your Lordship's Memorialist such an extent of waste land in the Territory as Your Lordship may deem advisable or a reduction on the price of an extent of waste land to be purchased by Your Memorialist of such amount as Your Lordship may think proper.

Your Lordship's Memorialist begs also most respectfully to state that, in preferring this request, he is not actuated by any desire to become a Landholder in this Colony; but, while he feels desirous of being relieved from those pecuniary obligations which he felt it

Request for
land grant or
remission on
purchase
money.

Reasons
for request.

necessary to contract in the progress of the undertaking, he has reason to believe that the possession of a tract of land in the Colony would enable him, with the assistance of his friends in London, to form a Settlement of Free emigrant agricultural families which might perhaps lead to an extensive Emigration to this Colony of persons of that most useful class in society.

1833.
8 July.

Reasons
for request.

And Your Lordship's Memorialist as in duty bound will every pray, etc., etc.

JOHN DUNMORE LANG.

Sydney, New South Wales, 24 June, 1833.

GOVERNOR BOURKE TO VISCOUNT GODERICH.

(Despatch No. 56, per ship William Stoveld; acknowledged by right hon. E. G. Stanley, 26th March, 1834.)

My Lord, Government House, 8 July, 1833.

The Memorial, a Copy of which is now transmitted, would have been laid before the Legislative Council with a recommendation to appropriate One hundred pounds towards the support of Schools in connexion with the Scots Church in this Colony, if I had been assured that the Body, from whom the Memorial has emanated, is a legally constituted Presbytery. I apprehend something more than the Voluntary Association of three ministers is required to form such an Assembly, claiming to itself the power of Ordination and other important privileges. I have mentioned this matter to Dr. Lang, who has within these few days obtained my leave to proceed to England on his private affairs, and requested him to bring the subject under your Lordship's notice. As there are now four Ministers of the Scots Church receiving Stipends from government in this Colony, and aid is solicited for two more, it seems necessary that some Superintending power should be constituted to maintain discipline in the Ministry and regulate the concerns of their Church. I would therefore earnestly recommend to Your Lordship to take measures for establishing a Presbytery upon a legal basis; already some dissensions between the Ministers have been manifested, which nothing but lawful authority can suppress.

Memorial from
Presbyterian
ministers.

Necessity for
legally
constituted
presbytery.

I take this opportunity of transmitting a Copy of certain Regulations for the Government of the first Scots Church established in this Colony, which seem to me unobjectionable, and were approved by Governor Sir Thomas Brisbane. I do not discover that these Regulations were submitted* for the approval of H. Majesty's Government. If they shall now be sanctioned by competent authority, they may form a Model for the other Presbyterian Churches, forming within this Colony.

Regulations of
Scots church.

I have, &c.,

RICHD. BOURKE.

* Note 32.

1833.
8 July.

Memorial
soliciting
salaries for
Presbyterian
schoolmasters.

[Enclosure No. 1.]

THE Memorial of the undersigned Ministers of the Church of Scotland in this Colony, constituting the Presbytery of New South Wales.

To His Excellency Major General Bourke, Captain General and Commander in Chief in and over the Territory of New South Wales, etc., etc.,

humbly Sheweth

That, in Consequence of the great And Continuing influx of free emigrant Scotsmen and Presbyterians from the North of Ireland of the Middle and lower Classes of Society into this Colony during the last two Years, there is at present a large and increasing number of Children of Presbyterian Parents growing up to Manhood throughout the Territory.

That the existing provision for the education of the Youth of the Colony of the middle and lower classes of Society is not such as can be embraced by Presbyterian Parents on behalf of their Offspring without Compromising their religious principles, while its general efficiency is in the estimation of Your Excellency's Memorialists much inferior to that of the parochial Schools of Scotland.

That it would therefore be highly desirable for the Presbyterians of the Colony, as well as generally beneficial, if a School on the plan of the parish Schools of Scotland Could be formed in connection with every Presbyterian Congregation throughout the Territory to be Supported in part by a small salary for the Schoolmaster from the Colonial Revenue and partly by moderate fees from the pupils.

Your Excellency's Memorialists therefore most respectfully solicit that your Excellency would be graciously pleased, in the midst of your Excellency's patriotic exertions for the Youth of the Colony, to recommend to the Honorable the Legislative Council to grant a Small Salary of from £25 to £50 (Twenty five to Fifty Pounds) per Annum to a Schoolmaster in connection with each of the Scots Churches of the Colony.

And Your Excellency's Memorialists as in duty bound will humbly pray, etc.

JOHN CLELAND, Moderator.

JOHN DUNMORE LANG.

THOMAS THOMSON.

Sydney, 20th June, 1833.

[Enclosure No. 2.]

[This enclosure comprised copies of the papers forming enclosure No. 2 to Sir Thomas Brisbane's despatch, dated 14th August, 1824; see page 343 et seq., volume XI.]

GOVERNOR BOURKE TO UNDER SECRETARY HAY.

(Despatch per ship William Stoveld.)

15 July.

Sir,

Government House, 15 July, 1833.

Despatch
acknowledged.

In reply to your letter of the 13th December last, desiring to be informed whether certain Arms and Accoutrements left in the Stores at this place, of which a Return is forwarded by the Secretary to the Master General and Board of Ordnance in his

letter of the 30th November last, are required for local services, I have the honor to inform you that I do not consider them to be so. None of the Arms and Accoutrement mentioned in the Return are used for any local service whether defrayed by Colonial or British Funds. Carbines, Swords, Pistols and Cavalry Accoutrements are from time to time required for the Mounted Police, and the two former descriptions of Arms for the Constabulary; but the expense of these bodies is a charge on the Military Chest. I would further beg leave to observe that, considering the description of Persons who form a large portion of the lower classes of the community in this Colony, it would not be advisable to direct any arms or accoutrements to be publicly sold here.

1833.
15 July.

No demand
for arms and
accoutrements.

Objections to
sale of arms.

I have, &c.,

RICHD. BOURKE.

RIGHT HON. E. G. STANLEY TO GOVERNOR BOURKE.
(Despatch No. 24, per ship Neva.)

Sir, Downning Street, 20 July, 1833. 20 July.

I have the honor to acknowledge the receipt of your despatches, addressed to Viscount Goderich, of the dates and numbers stated in the margin.*

Despatches
acknowledged.

No. 5. I approve your decision to continue to Constable Geary his Pension of 1s. per diem until the 1st of August next, when he is to undergo another examination as to the state of his general health and of the wounds, on account of which the Pension was granted by General Darling. You are at liberty to authorise the continuance of this Pension, so long as Geary's health and state of body may disable him from earning a decent livelihood.

Approval of
pension for
D. Geary.

No. 6. On referring your Despatch to the Home Office, it appears that George Price, alias Stuart, was discharged from Newgate by Pardon about six months ago. He is supposed to have proceeded to America; but, if he should be apprehended in this Country and can be identified as George Stuart, who was tried at the Sussex Assizes in March, 1817, and sentenced to transportation for Life, measures will be taken by Lord Melbourne for conveying him to New South Wales for the purpose of undergoing that sentence.

Report re
G. Price.

No. 23. On examining the former correspondence respecting Mr. Hovell's claim, and on communicating with General Darling, I am sorry to state that I see no ground for giving him any further compensation for his expences in conducting, jointly with Mr. Hume, an Expedition of Discovery† set on foot by Sir Thomas Brisbane.

Refusal of
compensation
for
W. H. Hovell.

* Marginal note.—No. 5, 5 Jany., 1833; No. 6, 7 Jany., 1833; No. 23, 8 Feby., 1833.

† Note 6.

1833.
20 July.
Recommendation of
W. H. Hovell
for employment.

As, however, Mr. Hovell appears to be a person of respectability, and represents himself to have sustained serious losses by the Journey, I think he has a fair claim to Employment by the Government, if he should desire it; and I trust that it will be in your power to confer upon him some small appointment, which may become vacant, and for which he may be qualified.

I am, &c.,

E. G. STANLEY.

RIGHT HON. E. G. STANLEY TO GOVERNOR BOURKE.
(Despatch No. 25, per ship Neva.)

21 July.

Sir,

Downing Street, 21st July, 1833.

Instructions for adoption of imperial weights and measures.

With reference to your Despatch No. 110 of the 30th October last, I beg to acquaint you that I have submitted to the Lords Commissioners of the Treasury the propriety of extending to the Customs and Excise Departments of New South Wales the use of the Imperial Weights and Measures, which have lately been declared, by the Colonial Act of the 3rd William the 4th, No. 4, to be the Standard Weights and Measures of the Colony. Their Lordships have expressed their opinion that it is very desirable to extend the provisions of this Act to the transactions connected with the collection of the Customs and Excise duties in the mode pointed out in the 14th Clause* of the Act above mentioned. The Board of Customs will be apprised by their Lordships of the projected alteration, in order that the requisite Instructions may be forwarded to the Officers of that Department in the Colony; and you will, accordingly, carry this measure into effect in all the cases that have been reserved, as soon after the receipt of this Despatch as may be practicable.

The general approval of His Majesty in regard to this Act, or any special observations which it may call for, will be conveyed to you, when the other Acts alluded to in Your Despatch shall have undergone consideration.

I am, &c.,

E. G. STANLEY.

RIGHT HON. E. G. STANLEY TO GOVERNOR BOURKE.
(Despatch No. 26, per ship Neva.)

22 July.

Sir,

Downing Street, 22d July, 1833.

Relief of 17th by 50th regiment.

His Majesty having approved of the 50th Regiment of foot proceeding by detachments in charge of Convicts to New South Wales, I have to desire that, on the arrival there of the Service Companies of that Corps, the 17th Regiment may proceed to India according to the further directions which will be conveyed to you by the General commanding in Chief.

I am, &c.,

E. G. STANLEY.

RIGHT HON. E. G. STANLEY TO GOVERNOR BOURKE.

1833.
23 July.

(Despatch No. 27, per ship Neva.)

Sir,

Government House, 23d July, 1833.

On the 27th of December* last, my Predecessor addressed to you a Dispatch enclosing various Documents, which had been communicated to this Department by Mr. James Atkinson, who complained of having been refused a grant of Land (at the period when no regulations existed to the contrary), the selection of which had been made by him in conformity with the gazetted orders of General Darling; and you were informed, at the same time, by Lord Goderich of the extent to which his Lordship was disposed to meet the views of Mr. Atkinson.

Previous
instructions
re claim of
J. Atkinson.

That Gentleman, not having considered that his case was sufficiently understood when Lord Goderich came to a decision upon it, has renewed his claim in various shapes since I accepted the Seals of this department, and the inclosed Application is one which he has addressed to my under Secretary after an Interview which, by my direction, was had with Mr. Atkinson upon the subject. With the view of preventing all chance of misunderstanding as to the extent to which I am disposed to modify Lord Goderich's former decision in respect to this case, I beg also to enclose the Copy of a Letter, I wrote on the 25th of June to Lord Gosford, who has much interested himself in this matter, as well as of the answer which has been returned by my Under Secretary to the last communication received from Mr. Atkinson himself; and I have to desire, in pursuance of the promise there held out to him, that in the event of his statements proving to be correct, and that he was refused the particular grant of Land for which he applied upon insufficient grounds, that you will now make to him a Grant of Land, upon the terms in force prior to the adoption of the new Regulations, sufficient in quantity to make up for the alleged superiority of that which had been previously denied to him by General Darling.

Renewal of
application by
J. Atkinson.

Instructions
re settlement
of claim.

You will perceive that I have given my most unqualified refusal to admit Mr. Atkinson's claim to compensation, in Land, for any expence or loss of time which he may have sustained in consequence of the circumstances of which he complains.

I have, &c.,

E. G. STANLEY.

[Enclosure No. 1.]

MR. J. ATKINSON TO UNDER SECRETARY HAY.

Sir,

St. James's Place, 13th July, 1833.

In accordance with a suggestion of the Earl of Gosford, made during the interview with you yesterday, I beg to submit to the Secretary of State for the Colonies whether he will be pleased to authorise General Bourke to give me a quantity of Land equivalent

* Note 34.

1833.
23 July.

Request by
J. Atkinson
for land grant.

to the value of the Grant, I had selected, and to the expense and loss of time I may prove that, in consequence of its being refused to me, I have sustained, if it shall appear to H. Ey. that I made my selection in conformity with the Gazetted Orders of Governor Darling, that I had previously performed every act required of me by General Darling (amongst others I executed a Bond binding myself to remain three years in the Colony and disposed of my Commission in H.M. Service), and that my statement as to the several causes of refusal to my application, and respecting the Gentleman, who was put in possession of the land in question, is strictly correct.

I have, &c.,

JAS. ATKINSON.

[Enclosure No. 2.]

RIGHT HON. E. G. STANLEY TO EARL OF GOSFORD.

My Lord,

Downing Street, 25th June, 1833.

Decision re
claims of
J. Atkinson.

In consequence of the strong interest which your Lordship takes in the case of Mr. James Atkinson, as well as from the desire which exists on my own part to render justice to that Gentleman upon any point on which he may appear to be aggrieved, I have, notwithstanding Lord Goderich's decision, and the former opinion expressed by myself, again examined the several papers and statements, including the explanation of the 2d May, which Mr. Atkinson has brought under the notice of this Department; but I regret to acquaint your Lordship that I do not see any grounds upon which the interference of the Secretary of State is called for, the more especially as the governor of New South Wales (to whom a great latitude of discretion must at all times be left in matters of this nature) in declining to place Mr. Atkinson in possession of the specific location for which he applied, offered him the choice of any other disposable Land throughout the Colony, which might be suited to his views. Under these circumstances, I conceive that if, as Mr. Atkinson states, he has undertaken a voyage to England on this account *alone*, the loss of time and expense, which he has incurred, rests with himself.

I beg to add that I shall feel no objection to repeat the Instructions, which have already gone out to the Colony in conformity with the promise given by Lord Goderich to Mr. Atkinson; and that, although I cannot consent to modify the terms in such a manner as may meet the wishes of that Gentleman, I shall take an early opportunity of enquiring into the grounds on which the grant of Land was refused to him.

I am, &c.,

E. G. STANLEY.

[Enclosure No. 3.]

UNDER SECRETARY HAY TO MR. J. ATKINSON.

Sir,

Downing Street, 22d July, 1833.

Letter
acknowledged.

I have laid before Mr. Secretary Stanley your letter to me of the 13th Inst., and I have communicated to him at the same time the substance of the Communication, which I had with you on the preceding day, respecting the grant of Land to which you have advanced a claim in New South Wales, under the circumstances explained in the Communications which have been addressed by you to this Department since your return to this Country. I now beg to acquaint you that Mr. Stanley will, in pursuance of the

promise held out to you in his letter to the Earl of Gosford of the 25th June, write a further Dispatch to General Bourke, in which he will be directed to make a Grant of Land to you (upon the Terms in force prior to the substitution of those recently established) sufficient in quantity to make up for the alleged Superior quality of that, which, after selection, had been denied to you by General Darling in 1830 and 1831, should the Statements which you have made upon this subject turn out to be correct, and should it appear that there were not sufficient grounds for refusing you the particular grant of Land for which you had applied.

With respect to that part of your present Communication in which you apply for compensation in Land for the expense and loss of time which you have sustained in consequence of the original grant having been refused to you, Mr. Stanley directs me to inform you that he does not feel at liberty to entertain such a proposition; and I beg to add from myself that I should at once have discountenanced any such expectation on your part, had I understood at the meeting, which I had with Lord Gosford and yourself on the 12th Inst., that it was your intention to bring forward such a claim.

I am, &c.,

R. W. HAY.

1833.
23 July.

Instructions to
be sent to
R. Bourke.

Refusal of
compensation
for loss of time.

RIGHT HON. E. G. STANLEY TO GOVERNOR BOURKE.

(Despatch No. 29, per ship Neva; acknowledged by
Governor Bourke, 6th December, 1833.)

Sir,

Downing Street, 26th July, 1833.

26 July.

As the Funds, which have been placed at the disposal of His Majesty's Government by the Legislature of New South Wales to facilitate the emigration of married Mechanics and single Females to that Colony, are now nearly exhausted, and will be completely so by the time of the arrival of the other Emigrants to whom this assistance has been promised, I deem it right to take a retrospect of the proceedings which have been adopted since the last communication was addressed to you upon this subject, dated 10th of March last, in which you were requested to send home certain information with the view of enabling His Majesty's Government to ascertain the probable amount of Funds, which would be available for the same purpose during the year 1834.

Review of
problems of
immigration.

Since the first commencement of the arrangements for granting Loans and Bounties up to the present time, 397 Families consisting of 1,538 Persons in number, and 361 single females have received assistance from these Funds, in addition to which the two Ships named in the Margin,* each containing about 200 Young Women, have been despatched to New South Wales; the one is reported in your Despatch of the 24th September to have reached the Colony, the other sailed in April of the present year, and a third vessel named the "Layton," similarly freighted, will,

Number of
assisted
immigrants.

Female
immigrants.

* *Marginal note.*—"Red Rover," Bussorah Merchant."

1833.
26 July.
Probable
revenue from
crown lands.

as you were informed on the 8th of June, be despatched for the same destination in the course of next month. It is stated in your Despatch of the 27th Feby., 1832, that you think His Majesty's Government may count upon an annual payment of £10,000 for the next three years from the Revenue of Crown Lands, and that, if the Sale of Crown Lands should proceed with Spirit, the sum might be taken still higher. Acting upon this information, His Majesty's Government have considered themselves warranted in incurring an expenditure of £20,000 (for the years 1832 and 1833) for purposes connected with Emigration. Of this sum, there has been expended—

In Loans	£7,831
In Bounties and freight of ships, including the "Layton"	12,812
	<hr/>
	£20,643

Expenditure
incurred on
immigration.

Loss by fire of
ship *Hibernia*.

Adjustment
of accounts.

Suspension of
bounties to
immigrants.

Statement to
be submitted.

According to the above statement, there would appear to be an excess of expenditure beyond the amount provided of £643; but, in consequence of the dreadful calamity* which befell the "Hibernia," a Ship freighted with Emigrants from Liverpool, which was destroyed by fire on her passage to New South Wales, a deduction of £454, which corresponds with the amount of the Payments ordered in the case of the Emigrants who embarked in that vessel, may be made from the excess above stated, which will be still further diminished by the re-payments from the Emigrants who proceeded the earliest to the Colony, several of which re-payments, if not already made, may be shortly expected to be received into the Colonial Treasury. Notwithstanding these circumstances, however, it has been deemed advisable to suspend for the present any further assistance, and the notice has accordingly been issued, of which the enclosed is a Copy; His Majesty's Government deeming it expedient to keep the expenditure within the Minimum amount of Funds available for this purpose, than to risk the inconvenience which could not but result to the Local Government from a contrary proceeding—the balance, if any remains, of the Funds, which may be expended for the two years before mentioned, being added to the Sum which it may be in your power to appropriate for the same object in the course of the ensuing year; and, in order that as little time as possible may be lost in renewing the assistance which the Emigrants so anxiously seek, I have to request, if you should not have already forwarded to this Department the Statement alluded to in my Under Secretary's Letter to you of the 10th of March last, that you will, on the receipt of this Despatch, lose no time in furnishing me with the desired information.

* Note 35.

I entertain considerable apprehension that, in many cases, the Persons, who have been assisted from the above Funds, may not belong to that Class, to which it was the intention of His Majesty's Government to confine it; but you must be too well aware of the difficulties, attending the complete success of a measure upon the extensive Scale of that which has been undertaken, to make it necessary for me to enter into a minute detail of them; and I deemed it therefore sufficient to remark that every endeavour will be used, on the renewal of the encouragement next year, to establish a better system of control over the Selection of the Persons, who may in future be permitted to participate in the Benefit. At the first stage of the proceedings, it became advisable to leave generally to the Ship-owners much latitude in collecting Persons of the description required; and altho' the Certificates, which were required to accompany each application, signed by the Clergyman of the Parish in which the proposed Emigrant resided, and by other respectable Persons, were, as it was supposed, a sufficient guarantee that no deception would be practised upon the Government, yet I am concerned to state that the precaution was not, in all cases, attended with the desired effect; and that other checks than those, which were at first adopted, will become necessary to prevent a recurrence of the same evil for the future.

1833.
26 July.

Difficulty in
selection of
immigrants.

It was unfortunately so much the interest of Shipowners to look to numbers rather than to the qualifications of the Candidates for Loans and Bounties, that no means were neglected by which Passengers could be obtained, and Agents were consequently dispersed throughout the Country to induce Persons, who might not otherwise be so disposed, to come forward to avail themselves of the proffered assistance. A check to this system may be expected to lessen very materially the number of the Emigrants; but any deficiency in this respect will be made up to the Colony by the superiority of those who I trust will still be desirous of proceeding there, and who will, as far as possible, be strictly limited to the description of Persons, to which in the Report, enclosed in your Despatch of the 11th April, 1832, it is recommended that the encouragement should be given.

Practise of
shipowners
in securing
immigrants.

An agent of Government stationed at Liverpool, from which Port most of the Emigrants have hitherto proceeded, has now been appointed to superintend this branch of the business, whose duty it will be to investigate the Characters and circumstances of all Applicants for the Loans or Bounties. Through the instrumentality of this Agent, a check will exist against those misstatements which have been found in the written applications of Ship-owners and the Parties themselves, notwithstanding the

Appointment
of agent at
Liverpool to
check
imposition.

1833.
26 July.
Reasons for
explanation.

Certificates by which such applications were always accompanied. I have thought it necessary to enter, at once, into this explanation, in order to anticipate in some measure the disappointment, which I fear may arise on the arrival in the Colony of some of the Persons who may have proceeded thither, and to shew that, altho' the error may have been committed, His Majesty's Government are not insensible to the existence of it or unprepared, so far as it may be in their power, to provide a remedy, with the view of introducing into the Colony a more respectable and profitable body of Mechanics and Females than may have already reached it.

Female
immigrants.

With regard to the latter class of Emigrants, it has been extremely satisfactory to me to observe, on a perusal of your Despatch of the 24th of September last, the course which you had pursued in disposing of the Females by the "Red Rover"; and I request that you will favour me with an equally full report on the general character and behaviour of the Females sent out in the "Bussorah Merchant," and as to the manner in which they have been provided for. These Females were selected by a Committee of Gentlemen in London, who certainly evinced great Zeal in the voluntary duties which they undertook; and it is to be hoped that the results will be commensurate with their Labours. The Females, who are preparing to embark in the "Layton," which Ship will sail about the 15th of next month, have been Selected with equal care by the same Gentlemen; and, for similar reasons to those which induce me to desire to receive a special report in respect to the Females who have proceeded to the Colony in the "Bussorah Merchant," I am anxious to know to what extent those by the "Layton" may realize the expectations which are formed of them by the Gentlemen, to whom, as before stated, their selection has been entrusted.

Method of
selection.

There are some points adverted to in your Despatch of the 24th of September last, upon which I shall now take the opportunity of offering a few observations.

Wages available
for immigrants.

It would appear from the information which you have communicated in regard to the wages paid in the Colony at the date of your Despatch, that the rates are by no means so high as they were stated to be in the printed paper issued by this Department on the 18th of July, 1831, for the use of Emigrants, and every care has accordingly been taken to undeceive those upon this point who had not already taken their departure. As the arrival in the Colony of so large a body of Mechanics and Laborers, as that which has proceeded there since the date of your Despatch, may still further reduce these rates, I request that you will return to me the enclosed Paper corrected according to the present

demand for Persons of that description, with such additional particulars affixed to it, as it may be deemed of advantage to the Emigrant to be acquainted with prior to his leaving the Country.

1833.
26 July.

The Complaints, which you have made respecting the conduct of the discharged Soldiers who have been allowed to commute their Pensions, are not I am concerned to say limited to those who have proceeded to New South Wales. Similar representations having been received from every other quarter where they have established themselves. The System of commuting the Pensions of such Persons will in all probability be discontinued, and it will be my endeavour, as far as it may be possible, to prevent any Soldiers, who may be still in the receipt of their Pensions, from participating in any facilities which may be afforded to any other description of Emigrant, to enable them to defray their expenses to the Colony, with the exception only of those whose habits of industry and sobriety can be safely depended upon.

Objections to discharged soldiers as immigrants.

In the concluding part of your Despatch, you advert to the difficulty of obtaining a valid obligation from the Parties, to whom the advance of £20 is made, for the payment of that sum, The master of the Ship, in which the Emigrants may have obtained their passages, not always producing them before the proper officer after their arrival in the Colony, and the Emigrants themselves neglecting to enter into a New Security. With the view of obviating this difficulty and of meeting the suggestion of the Collector of internal Revenue on this point, proper steps will be taken for the future for securing the evidence of the Master and mate of the Ships, by which the Emigrants may embark, or, in case the master should be owner of the Vessel, of the mate and the Surgeon, as a witness to the hand-writing of the party by whom the promissory note for the repayment of the advance may have been signed; and care will be taken at the same time to explain to the Master or Owner of such Vessel that he will not be entitled to receive any portion of the sum, which may be due on behalf of the Emigrants whom he may take out to the Colony, until he shall have produced the Parties before the Officer who may be appointed by the Colonial Government for the purpose, and gone through all the forms which may be deemed necessary for rendering the promissory notes available in the Colony; and, in order that no obstacles may be opposed to this arrangement on the part of the Emigrant, he should not be allowed permanently to quit the vessel, or to have his baggage delivered to him if his detention on board should prove, as it possibly may, inconvenient to the Ship, until the preliminary step before mentioned shall have been undertaken.

Difficulty re repayment of advances to immigrants.

System proposed.

1833.
26 July.

On the other hand, you will of course appoint to this especial duty, some officer of your Government, who may in addition to his other employment be capable of attending to it, and who should be made responsible for the accuracy with which it may be performed.

I am, &c.,
E. G. STANLEY.

[Enclosure No. 1.]

FORM OF NOTICE.

Colonial Office, April, 1833.

Suspension
of advances to
immigrants.

MR. HAY is directed by the Secretary of State to acquaint that, the funds allotted for the encouragement of Emigration to the Australian Colonies being at present exhausted, no further applications for aid can be complied with until next year, when it is proposed that fresh funds should be made applicable to the purposes of Emigration.

[Enclosure No. 2.]

[*This was the printed circular* from the commissioners for emigration, dated 18th July, 1831.*]

GOVERNOR BOURKE TO VISCOUNT GODERICH.

(Despatch No. 57, per ship William Stoveld; acknowledged by right hon. E. G. Stanley, 17th February, 1834.)

1 Aug.

Transmission
of statement by
J. Kinchela.

My Lord, Government House, 1 August, 1833.

In compliance with the directions contained in Your Lordship's despatch No. 142, dated 30th November, 1832, I have called upon the Attorney General to state, with reference to the trial of three Soldiers on the 7th May, 1832, for a Rape, the reason of his having omitted in the indictment to charge these men on a second count with the minor offence of an assault with intent to commit a Rape, by which means a conviction might have been secured. The accompanying Letter in reply to this reference, I have now the honor to enclose for Your Lordship's information.

I have, &c.,
RICHD. BOURKE.

[Enclosure.]

ATTORNEY-GENERAL KINCHELA TO COLONIAL SECRETARY MACLEAY.

Sir, Attorney General's Office, 6th July, 1833.

Report by
J. Kinchela re
indictment in
trial for rape.

I have the honor to acknowledge the receipt of your letter of the 14th ultimo, referring to the trial of three Soldiers on the 7th May, 1832, for a Rape, stating that you were directed by His Excellency the Governor to acquaint me that the Secretary of State had required to be informed of the reason of my having omitted in the Indictment to Charge these men in a Second Count with the minor offence of an assault with intent to commit a Rape, and requesting that I would report accordingly.

In reply, I have the honor to state for the information of His Excellency that, though I have known it to be the practice in

* Note 36.

Ireland in such cases to add a second count for the minor offence in an Indictment for the Capital felony, yet on my arrival in this Colony I found that, consistent with the practice in England, it had not been the practice in the Courts here to join a Count for a Misdemeanour in the same Information with a Count for a Felony; but, in Such cases, where the prosecution for the felony failed, it was the practice to file a Second Information for the Minor Offence, if the Evidence given on the first Information would lead the Law Officers of the Crown to think that the charge in the Second Information would be Supported; and I would have done so in the above case, but that it appeared to me and to the Crown Solicitor that the prosecution in that Case had been tampered with, and the prosecutrix failed in consequence of her declining to prove the material fact to have been Committed; and I was Satisfied that, if a Second Information should have been then filed for the Minor Offence, the Counsel for the Prisoners on her Cross Examination would have obtained from the prosecutrix the proof of the material fact, which in the direct Examination the Counsel for the prosecution could not procure, and that on Such proof the parties must have been acquitted of the Misdemeanour, and, having been previously acquitted of the Capital Charge, both Informations would have failed. I therefore considered it more prudent not to bring on the second prosecution, as a Second verdict of acquittal would in my opinion have been the result. I immediately however wrote my opinion on the subject to the Committing Magistrate, and, as I never received an answer from him to my letter, I conceived that he had concurred with me in the propriety of the line I had adopted.

I think it necessary further to State, for His Excellency's Information, that, in a Similar Case Since tried, in which the prosecutrix, when put into the Box to be examined, was in such a State of intoxication that the learned Judge, who tried the Case, would not allow her to be examined and directed the Jury to acquit the Prisoner, I immediately filed a Second Information for the minor Offence, and, as the prosecutrix could not be examined from the State in which she was, I by other Witnesses Convicted the prisoner of the assault.

I have, &c.,

JOHN KINCHELA.

GOVERNOR BOURKE TO VISCOUNT GODERICH.

(Despatch No. 58, per ship William Stoveld; acknowledged by right hon. E. G. Stanley, 7th February, 1834.)

Government House,

My Lord,

Sydney, 2nd August, 1833.

2 Aug.

At the request of Mrs. Dulhunty, Widow of an Officer who formerly held the situation of Police Magistrate in this Town, I have the honor to transmit a Letter, which she has addressed to me for the purpose of obtaining as a free grant from the Crown a Town Allotment, to which she considers herself to have a claim as the Widow of an Officer in His Majesty's Service.

Request by
J. Dulhunty for
town allotment.

Mrs. Dulhunty states that she was led to believe, from the two accompanying letters from the Colonial Secretary in answer to her first applications for a Town allotment, that her claims were acknowledged by this Government; but, as it appears from a

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2 Aug.

subsequent communication addressed to her by direction of General Darling that it was not his intention to have complied with her request, I have not now felt myself authorized to yield to her solicitation, nor can I recommend to Your Lordship to depart from the Regulations of H.M.'s Government in her favor.

Denial of
statement by
J. Dulhunty.

There is *however* one part of Mrs. Dulhunty to which I consider it necessary to advert further. In concluding she states "*that other applicants, similarly situated with herself and many probably whose applications were of a more recent date, have had their allotments confirmed by me.*" To this I beg leave to reply that, in obedience to His Majesty's Commands, I have never confirmed any promises of Land but such as were made by my Predecessor prior to the 30th June, 1831, on which day the Regulations for the Sale of Crown Lands were made public.

I have, &c.,

RICHD. BOURKE.

[Enclosure.]

MRS. DULHUNTY TO GOVERNOR BOURKE.

Sir,

Parramatta, 14th May, 1833.

Application by
J. Dulhunty for
town allotment.

I have the honor to address Your Excellency on a subject which I hope will meet with a favorable consideration. My late Husband held the situation of Police Magistrate of Sydney at the time orders were received to allot the Land on Woolloomooloo Hill to certain Civil Officers on stated conditions; that after the death I was encouraged by the Private Secretary Colonel Dumaresq to make an application to His Excellency General Darling, which I had every right to expect was favorably received as your Excellency will perceive from the enclosed correspondence in the months of November, 1829, and January, 1830; in consequence of which, assisted by Colonel Dumaresq who lent me the Chart, I made my selection of an Allotment under the impression that my application would have been favorably considered (having explained to General Darling my readiness to fulfil the conditions required of me); I forbore reminding him of it until a Short time before his departure, when to my surprise I received an answer informing me "he had never led me to suppose I ever was to get an allotment of Ground"; by this time the new-regulations prohibiting the granting of Land must have been in force, and consequently the long suspense I was kept in prevented me from following up my application, while it was in the General's power to comply with it. Why he should have treated my application with a denial, I am perfectly at a loss to know, as I beg to assure Your Excellency I never received any indulgence whatever from the Government, though I did feel I had some claim as the Widow of a Naval Officer who had faithfully served the King for upwards of thirty years.

On my return to Sydney from the Country after an absence of upwards of three years, I understand that there is Still unappropriated Crown Land in the vicinity of the place, where I was desirous of obtaining an Allotment, and that other Applicants

similarly situated with myself in this respect, and many probably whose applications are of more recent date than mine, have had Allotments for which they applied confirmed to them by Your Excellency. Such being the case, I am induced to bring the circumstance under Your Excellency's Notice, being sure of its receiving every consideration at your hands.

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I have, &c.,
JANE DULHUNTY.

[Sub-enclosure No. 1.]

COLONIAL SECRETARY MACLEAY TO MRS. DULHUNTY.

Madam, Colonial Secretary's Office, 4th November, 1829.

With reference to your application of the 30th Ultimo for one of the Allotments to the East of Woolloomoolloo, in the neighbourhood of Mr. Cooper's residence in the South Head Road, I am directed by His Excellency the Governor to inform you that your request will be considered when the arrangements are made for disposing of the Land in the situation applied for.

Application
acknowledged.

At the same time, I am further directed to apprise you that the expense, which would attend the fulfilment of the conditions, would not be inconsiderable.

I have, &c.,
ALEX. MCLEAY.

[Sub-enclosure No. 2.]

COLONIAL SECRETARY MACLEAY TO MRS. DULHUNTY.

Madam, Colonial Secretary's Office,
Sydney, 20 January, 1830.

I have had the honor to receive your application of the 12th Instant for the Allotment No. 19 on the East side of Woolloomoolloo Hill instead of No. 16 as requested in your letter of the 30th October, 1829.

Second
application
acknowledged.

In reply I am directed by His Excellency the Governor to inform you that your application shall be noted accordingly, when arrangements are made for disposing of the Land in question, but at the same time to observe, as mentioned in my letter of the 4th November last, that the expense, which will attend the fulfilment of the conditions, will not be inconsiderable.

I have, &c.,
ALEX. MCLEAY.

[Sub-enclosure No. 3.]

COLONIAL SECRETARY MACLEAY TO MRS. DULHUNTY.

Madam, Colonial Secretary's Office, 8th August, 1831.

I have the honor by the direction of the Governor to acknowledge the receipt of your letter of the 28th Ultimo, and in reply to inform you that His Excellency regrets there should have been any mistake on your part, as it never was His intention to give you to understand that you should receive an allotment at Woolloomoolloo, apprehending, as he did when you made the application, that, as the fulfilment of the conditions would be attended with considerable expense, it might not be convenient to you to comply with them.

Denial of
promise of
allotment by
R. Darling.

His Excellency trusts that you will excuse the adoption of the present medium in replying to your letter, which he has found necessary in matters of business to prevent mistakes.

I have, &c.,
ALEX. MCLEAY.

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GOVERNOR BOURKE TO VISCOUNT GODERICH.

(Despatch No. 59, per ship William Stoveld; acknowledged by right hon. E. G. Stanley, 25th May, 1834.)

My Lord, Government House, 3rd August, 1833.

Transmission of
appropriation
act.

With reference to my Despatch of the 29th June last, No. 54, I have now the honor to transmit a Copy of the Act of the Governor in Council Appropriating the Revenues of this Colony for the year 1834. The printed Papers, which accompanied my former despatch, will have explained to Your Lordship the proposed Financial arrangements for that year, and the Act will shew, by comparing it with the printed Estimates, that the Council have agreed to the latter with but little variation in the particulars or amount. I transmit herewith a Copy of the Estimates, upon which the variations are marked.

Board for
assignment
of convicts.

Under the Head of the Board for Assignment of Servants, the charge for the Members of the Board has been omitted in conformity to Your Lordship's Instructions. I have, however, had some difficulty in getting this duty performed gratuitously. I have left the two former Members, the Colonial Treasurer and Principal Superintendent of Convicts in charge and have added the Clerk of the Councils. In the course of the next year, Your Lordship will perceive I propose to reduce the appointment of Collector of Internal Revenue, as recommended by the Commissioners,* handing over his duties to the Colonial Treasurer, who will then find his time so fully occupied in his own office as to be unable perhaps, certainly unwilling to Act on the Assignment Board. The duty will then devolve almost entirely on the Clerk of the Councils, as the P. Superintdt. of Convicts is too much engaged in his particular department to give much attendance at the Board. I would propose, if it be intended to continue the transportation of Convicts to this Colony on a large Scale, that an annual Sum of £400 be allowed to provide for their due assignment and transfer.

Increased vote
towards tunnel
for water
supply for
Sydney.

In the Department of the Mineral Surveyor, the Committee of the Council, to which I referred in my despatch of the 29th June last, No. 54, have recommended a small increase to the contingent expense amounting to £90 5s. 5d. for the purpose of engaging three emigrant miners, by whose assistance it is hoped the work will be materially expedited. This Committee has not yet finally reported. I shall have the honor of transmitting the report as soon as it shall be laid before the Council.

Subsidy for
church at
Bathurst.

In the Church establishment, an addition has been made of £375 in aid of a similar sum subscribed by the Inhabitants to build a Church at Bathurst.

* Note 37.

In the Miscellaneous Estimates, the Council have added at my instance, as explained in the accompanying Minute, the sum of £800 in addition to £1,200 voted last year for the erection of a School House at Paramatta, and of £300 to obtain possession of a convenient Site of six Acres. This expense is authorized by Your Lordship's despatch of the 22d March, 1831, No. 26.

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3 Aug.

Vote for King's school at Parramatta.

The proposed payment of £222 15s. 8d. to Messrs. Henry and William Dumaresq was omitted in the Estimates; but the claim of those gentlemen to a larger sum has since been heard by the Council, who have addressed me to allow the sum of £500 in satisfaction of those claims.* I shall have the honor to lay the proceeding before Your Lordship by another opportunity.

Compensation proposed for H. and W. Dumaresq.

The proposed Expenditure for 1834 being regulated by Your Lordship's Instructions and approved by the Council, I have now the honor to solicit His Majesty's gracious allowance of the Appropriation Act.

Request for allowance of act.

There are two Items of Expenditure, against which one of the Members of Council has protested† upon the late as upon a former occasion. Mr. John Blaxland objects to the Salary of the Resident at New Zealand and to the annual allowance of £750 to Mr. Macleay in addition to his Salary of £2,000. Copies of these Protests are transmitted herewith.

Protests by J. Blaxland;

Upon the first, I would observe that, tho' it is considered by many to be more a British than a Colonial object, and that the expense should therefore be defrayed from British funds, yet such is not the prevailing opinion in the Council, nor amongst the influential Persons out of Doors.

re salary for resident in New Zealand;

With regard to the Second, it is my duty to state that there is a very strong feeling expressed very generally against the arrangement, by which Mr. Macleay receives £750 a year from the funds of this Colony in addition to his Salary the former Sum being the amount of a Pension for services‡ performed in England, which pension he was obliged to relinquish on accepting the employment he holds. Mr. Macleay is no doubt entitled to the benefit of his arrangement; but it would remove a source of great discontent here to charge the amount on some British Fund. A Petition very numerously signed is about to be presented to The Governor and Legislative Council, praying for a more economical expenditure of the public money, and dwelling particularly upon the hardship of charging on a Colonial Fund a Pension, which it would not be legal to pay from the British Treasury.

and re payment to A. Macleay.

I have further to transmit a Resolution‡ of the Council, praying that Your Lordship would authorize an encrease to Mrs. King's Pension for the reasons therein stated. This augmentation is

Proposed increased pension for A. J. King.

* Note 38.

† Note 39.

‡ Note 40.

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3 Aug.

Proposed
increased
pension for
A. J. King.

deprecatd in the Petition, to which I have referred, and certainly it would not be in conformity to the wishes of the Public to allow it. The Resolution was proposed and seconded by two of the Civil Servants in Council (in which is also a Son in Law of Mrs. King's) without any previous reference to me. Mrs. King is a very amiable Lady with small means, but I should add that many Members of her Family have received Grants of Land.

Proposed
abolition
of office of
collector of
internal
revenue.

I have to add, with reference to Your Lordship's observations in the Despatch of the 12th December last, No. 145, upon the establishment of the Collector of Internal Revenue, that I see no means of reducing its expense for some time to come, but by transferring its duties as proposed by the Commissioners to the Colonial Treasurer. This Officer will no doubt find time to perform them, but probably not without as large a proportion of Clerks as are now allowed to the Collector. I propose therefore to omit the Office in the Estimates, which will be brought forward in June next for the year 1835. The public will lose the Services of a most valuable servant by the reduction of Mr. Macpherson's office; and I wish I could see any probability of my being able to place him in another. I must beg leave to recommend him very strongly to your Lordship's particular consideration.

I have, &c.,

RICHD. BOURKE.

Testimony to
services of
W. Macpherson.

[Enclosures Nos. 1 and 2.]

Appropriation
act and
estimates.

[*These were the appropriation act, 4 Wm. IV, No. 6, and the estimates,* ordered to be printed by the council 14th June, 1833. corrected with the votes.*]

[Enclosure No. 3.]

EXTRACT from the Votes and Proceedings of the Legislative Council, 28th June, 1833.

RESOLVED: That a Sum not exceeding £750 be appropriated to defray the expense of an allowance to the Honorable Alexander McLeay, Esquire, in fulfilment of an agreement with the Right Honorable the Secretary of State for the Colonies, and in lieu of fees.

Protest by
J. Blaxland
re vote for
A. Macleay.

PROTEST: I protest against the Colonial Secretary receiving £750 a Year out of the Colonial funds for Services performed in England. The New South Wales Act, 9th Geo. IV, cap. 83, Sec. 35, expressly prohibits the Legislative Council from raising any tax, excepting for local purposes; it is therefore illegal to charge a pension for services performed in the Transport Office at Home upon the funds of the Colony. I request that the grounds of this my dissent from the Estimate may be recorded in the Minutes of the Council; and that an extract copy of such Minute may be transmitted, together with a copy of the Estimate, to the Right Honorable the Secretary of State for the Colonies, for the consideration of His Majesty's Government.

JOHN BLAXLAND.

A true copy:—E. DEAS THOMSON, Clk., Col.

[Enclosure No. 4.]

1833.
3 Aug.

EXTRACT from the Votes and Proceedings of the Legislative Council, 25th June, 1833.

RESOLVED: That a Sum not exceeding £1,000 be appropriated to defray the Salaries and contingencies of Agents and Residents abroad.

PROTEST: I protest against the proposed Sum of £500 a Year as a Salary for a Resident at New Zealand, on the ground that it is contrary to the New South Wales Act, 9th Geo. IV, Cap. 83; and I request that the grounds of this my dissent from the Estimate may be recorded in the Minutes of the Council, and that an extract copy of such minute may be transmitted, together with a copy of the Estimate, to the Right Honorable the Secretary of State for the Colonies, for the consideration of His Majesty's Government.

Protest by
J. Blaxland *re*
vote for resident
in New Zealand.

A true copy:—E. DEAS THOMSON, Clk., Col. JOHN BLAXLAND.

GOVERNOR BOURKE TO VISCOUNT GODERICH.

(Despatch No. 60, per ship William Stoveld; acknowledged by right hon. E. G. Stanley, 8th February, 1834.)

My Lord, Government House, 4 August, 1833.

4 Aug.

I have the honor to transmit, with reference to my letter No. 5 dated 5th January last, the Copy of a letter containing the report of a Medical Officer upon the injury sustained by a Constable named Geary in a conflict with Bushrangers, for which he receives a Pension from this Government. In consequence of the opinion delivered in this case that the effects of Geary's wounds are of a permanent nature, I beg leave to recommend to Your Lordship the confirmation of this Pension.

Transmission
of medical
report.

Request for
confirmation
of pension for
D. Geary.

I have, &c.,

RICHD. BOURKE.

[Enclosure.]

MR. A. GIBSON TO COLONIAL SECRETARY MACLEAY.

Sir, Goulburn Plains, 20th June, 1833.

I have the honor to acknowledge the receipt of your letter of the 6th Instant requesting me to examine into the state of health of Daniel Geary, late Constable at Goulburn Plains, with reference to the Wound which he received in the conflict with the Bathurst Bushrangers, and to report for the information of His Excellency the Governor whether in my opinion the injury is of a permanent nature.

Medical report
re D. Geary.

Upon examination of Geary this day, I find that he has not regained the perfect use of his left arm; from the Shoulder downwards the motions of the Joints are Sound, but the Muscles above appear so far paralyzed that he cannot elevate the arm to his head.

Taking the circumstances of his case altogether into my consideration, I am certainly now of opinion that the injury is of a permanent nature.

I have, &c.,

ANDW. GIBSON.

1833.
5 Aug.

GOVERNOR BOURKE TO VISCOUNT GODERICH.

(Despatch No. 61, per ship William Stoveld; acknowledged by right hon. E. G. Stanley, 7th February, 1834.)

My Lord, Government House, 5th August, 1833.

Request by
E. S. Hall to
hold land on
rent.

At the request of Mr. E. S. Hall, I have the honor to transmit a Memorial, which he has addressed to Your Lordship, praying to be allowed to hold one thousand acres of Land upon payment of Rent at the rate of 5 per cent. on the purchase money now due. The Land in question Mr. Hall applied to purchase in 1824, paying at the time 10 per cent. or £25 upon the purchase money; but, in consequence of delays in the measurement, he states that he has not yet been able to occupy the Land, and his circumstances at present prevent his completing the purchase by payment of the Balance due. I cannot recommend to your Lordship to deviate in this case from the Regulations of His Majesty's Government for the Sale of Crown Lands, as I am of opinion that the precedent thus established might be attended with much inconvenience by opening a door to similar applications.

Proposed
refusal of
request.

I have, &c.,
RICHD. BOURKE.

[Enclosure.]

Memorial of
E. S. Hall
requesting
permission to
hold land on
rent.

THE MEMORIAL OF EDWARD SMITH HALL,

To The Rt. Honble. Lord Viscount Goderich, H.M. Principal Secty. of State for the Colonies, etc., etc., etc.

Most humbly Sheweth,

That Your Memorialist, under the auspices of Mr. Wilberforce, the late Mr. Thornton and Sir James Shaw, and through them of the late Lord Liverpool, was provided with a free passage to New South Wales in the year 1811 as an Emigrant Settler of the first class.

That, since Your Memorialist arrived in the Colony, he has had eight children born in the Colony.

That nine years ago Your Memorialist deposited with Mr. Oxley, late Surveyor General, the sum of Twenty five pounds, being an advance of ten pounds per centum on the sum of Two hundred and fifty pounds charged by the Government as the price of one Thousand Acres of land, which Your Memorialist wished to purchase in the neighbourhood of Lake Bathurst in the County of Argyle.

That, in consequence of the land in the neighbourhood of the said Lake not having been measured by the Government owing to divers causes not necessary to be here enumerated, Your Memorialist has never been able to occupy the said Thousand Acres of land on which he paid the above deposit of twenty five pounds, and has consequently lost the use of the said twenty-five pounds for the said term of nine years.

1833.
5 Aug.

Memorial of
E. S. Hall
requesting
permission to
hold land on
rent.

That, owing to his large family, and having suffered great losses the last seven years, Your Memorialist will be unable to advance the balance of Two hundred and twenty five pounds, which will be due to the local Government on the said thousand acres of Land when the same shall come to be measured.

That Your Memorialist's family has lately removed from Sydney to the said Lake, and Your Memorialist cannot maintain them there in comfort and respectability without being allowed to purchase the said land for *an annuity*, in lieu of for ready money.

Your Memorialist therefore under the circumstances humbly prays Your Lordship to allow him to pay half yearly into the hands of the Colonial Collector of Quit rents the annual rent of eleven pounds five shillings for the said one thousand acres of purchased land, being at the rate of five pounds per centum on the said balance of two hundred and twenty five pounds, until Your Memorialist can afford to redeem the said Quit rent, on condition that, if the said rent be not paid by Your Memorialist half yearly, the land revert to the Crown.

And your Memorialist will ever pray, etc. E. S. HALL.

GOVERNOR BOURKE TO UNDER SECRETARY HAY.

(Despatch per ship William Stoveld.)

Sir,

Government House, 7 August, 1833.

7 Aug.

I have the honor to inform you that Dr. Lang, a Minister of the Scots Church in this Colony, having proceeded to England on leave in the last month, I have on the application of his Mother directed the half Salary, to which under the Regulations he is entitled, to be issued to her during his absence, the other moiety being paid to the Person who officiates for him in Sydney.

Payment of
salary to
mother of Revd.
J. D. Lang.

I have made this communication to prevent any issue on account of Salary being made to Dr. Lang in England. I should add that he has not taken from hence the certificate of the last payment made to him by the Colonial Treasurer, which it is necessary he should produce in England before any payment can be regularly made to him there.

I have, &c.,

RICHD. BOURKE.

1833.
10 Aug.

UNDER SECRETARY HAY TO GOVERNOR BOURKE.

(Despatch per ship Lloyds.)

My dear Sir, Downing Street, 10th August, 1833.

Female
immigrants per
ship *Layton*.

I beg to enclose a Copy of a letter from Mr. Marshall, the Owner of the Ship "Layton," which, you have been already informed, will be despatched on the 18th Inst. with about 250 Female Emigrants, the last of the number which will be sent out to the Colony, until information shall reach this Department, as to the probable amount of funds, which will be at its disposal for the year 1834 for objects of this nature.

Selection of
immigrants.

The greatest pains have been taken, as I have every reason to believe, in the selection of these females, who, having been taken from various Classes, will be suited to a greater variety of occupations than if their Selection had been limited to any one Class in particular; Some of them indeed (those of whom a List is Enclosed) are of superior habits and education, whom misfortunes in life have compelled to seek a maintenance in another Hemisphere, and I am induced to bring these Women specially under your notice, conceiving that it will facilitate the disposal of them after their arrival in situations which may be acceptable to themselves, and advantageous to those Families by whom they may be engaged. I have only in conclusion to convey to you Mr. Stanley's opinion that, as the risk, which Mr. Marshall has taken upon himself in accepting Promissary Notes from those of the Parties who were unable to make up the difference by any other mode of payment, has removed many difficulties which has impeded their Emigration, the Colonial Government are called upon to afford any reasonable assistance, which may be required for the recovery of the above payments; and I have therefore to recommend to your attention the wishes, which the enclosed letter from Mr. Marshall more fully contains upon this subject, as well as to bring under your favorable notice Mr. John Marshall, Junr., now residing at Sydney, to whom will be entrusted by his Father all the arrangements connected with the recovery of amount due on the Promissary Notes in question.

Assistance for
J. Marshall in
recovery of
advances.

I am, &c.,
R. W. HAY.

[Enclosure.]

[Copies of the letter and list of immigrants are not available.]

UNDER SECRETARY HAY TO GOVERNOR BOURKE.
(Despatch per ship Lloyds.)

1833.
11 Aug.

Sir, Downing Street, 11th August, 1833.

With reference to my letter to you of the 8th June last, apprising you that a Vessel was about to be despatched with Female Emigrants, I have now to acquaint you that they have been embarked on board the "Layton."

Embarkation of immigrants on ship *Layton*.

As it will be impossible, until the departure of this Vessel has taken place, to state the exact number of females who may embark in her, I am directed by Mr. Secretary Stanley to request that you will cause to be paid to the Agent for the "Layton" the sum of £6 for every Female whose name is inserted in the enclosed List, and who may arrive in New South Wales by that Vessel; and that you will also pay into the Military Chest a similar sum, which will be the amount of that portion of the Bounty of £12 paid by the Treasury on account of these females in this Country.

Instructions *re* payment of bounty.

I have, &c.,

R. W. HAY.

RIGHT HON. E. G. STANLEY TO GOVERNOR BOURKE.
(Despatch No. 30, per ship Lloyds.)

Sir, Downing Street, 17th August, 1833.

17 Aug.

I transmit herewith the copy of a letter received by my Under Secretary from the Secretary to the Treasury, together with a copy of the Report therein enclosed from the Commissioners of Customs, on the subject of the duties chargeable upon certain articles of Furniture, Wines, and other effects, imported by you into New South Wales, which duties you had declined to pay, conceiving that as Governor you were removed from liability to such a demand.

Papers *re* liability of governor for customs duties.

I likewise transmit the copy of a further letter from the Treasury of a previous date, in reference to a similar claim which had been preferred by Sir Alexander Cochrane, as Governor of Newfoundland. You will perceive, for the reasons therein stated, that the Lords Commissioners of the Treasury do not consider there are any grounds for extending to you a privilege, which under similar circumstances was denied to that officer; and I have therefore to desire that you will, upon the receipt of this Dispatch, pay over to the Collector and Comptroller of Customs at Sydney the duties chargeable upon the several articles adverted to in the Report made by the Commissioners, and in the other papers herewith transmitted to you.

R. Bourke to pay customs duties.

I have, &c.,

E. G. STANLEY.

1833.
17 Aug.

[Enclosure No. 1.]

MR. T. SPRING RICE TO UNDER SECRETARY HAY.

Sir, Treasury Chambers, 30th July, 1833.

Reports *re*
duties on effects
of R. Bourke.

I am commanded by the Lords Commissioners of His Majesty's Treasury to transmit herewith the Copies of a Report from the Commissioners of Customs, dated the 12th instant, also of the Communications from the Collector and Controller of the Customs at Sydney, New South Wales, relative to the Duties chargeable upon the furniture, Wines and other Effects, imported by Major General Bourke, the Governor; and, with reference to the Letter of this Board of the 19th of April last on the case of Sir Thomas Cochrane, I am to request that you will move Mr. Secretary Stanley to cause Instructions to be issued to the Governor of New South Wales to pay over to the collector and controller at Sydney the Duties of Customs upon the several articles, which he had imported prior to the receipt of the order of the Board of Customs alluded to in the Said Report.

R. Bourke to
pay customs
duties.

I am, &c.,
T. SPRING RICE.

[Enclosure No. 2.]

TO THE LORDS COMMISSIONERS OF HIS MAJESTY'S TREASURY.

Report *re* claim
of R. Bourke to
exemption from
customs duties.

THE Memorial Of the Commissioners for managing and causing to be levied and collected His Majesty's Customs

Sheweth,

That, in the month of May, 1832, we received a Communication from the Collector and Controller of this Revenue at Sydney stating that His Excellency Major General Bourke, the Governor of New South Wales, had upon his arrival in that Colony objected to the payment of any Duties of Customs upon his Furniture, Wines and other Effects, upon the ground that a similar exemption had been granted to him at the Cape of Good Hope; and, the Collector and Controller having requested that they might be furnished with our Directions for their Government, we accordingly caused them to be apprised that there was no Law which exempted a Governor of a Colony from payment of the Duties of Customs upon Wines and other articles, which he might import for his private use.

That we have recently received a further representation from the Collector and Comptroller at Sydney, stating that, having communicated to General Bourke the Instructions which they had received from us on this subject, His Excellency had informed them that he would feel it to be his duty to bring the question under the consideration of His Majesty's Principal Secretary of State for the Colonies, but that, pending a reply to such Communication, he should pay the Duties upon any articles which he might hereafter import for his own use, but that he had declined to pay the Duties upon the Wines and other articles which he had imported previously to the receipt of our order in the Colony.

We take leave to transmit for your Lordships' Consideration Copies of the Communications, which we have received from the Collector and Comptroller at Sydney, New South Wales, upon this subject; and we would at the same time draw your Lordships' attention to our Report of the 13th April last, No. 570, upon a Letter which you had been pleased to refer to us from Lord Howick, enclosing a despatch from Sir Thomas Cochrane, the Governor of

Newfoundland, requesting to be informed whether any Baggage and articles imported by him were liable to search by officers of this Revenue, and to payment of Duties, wherein we stated that there was no provision in any of the Laws relating to the Colonies, which exempted the Baggage of Governors from the usual Search and examination at the Custom House, or the articles which they might import for their private use from payment of the Duties to which they were liable upon importation; and we expressed our opinion that there were no grounds whatever for extending to Sir Thomas Cochrane the privileges sought by him, and that a compliance with his request would establish a Precedent that would be attended with consequences highly injurious to the Public Service.

Under the foregoing Circumstances, we would submit whether your Lordships may not deem it expedient to communicate with His Majesty's Principal Secretary of State for the Colonies in order that instructions may be issued to His Excellency the Governor of New South Wales to pay over to the Collector and Controller at Sydney the Duties of Customs upon the several articles, which he has imported prior to the receipt of our Order before referred to.

R. B. DEAN,

H. RICHMOND.

CULLING CHAS. SMITH.

GEO. VILLIERS.

Custom House, 12th July, 1833.

[Sub-enclosure No. 1.]

CUSTOMS OFFICERS TO COMMISSIONERS OF TREASURY.

Custom House, Sydney,

Honorable Sirs, New South Wales, 14th February, 1833.

We avail ourselves of the earliest opportunity to acknowledge the receipt of your Honors' Letter of the 19th July, 1832, acquainting us, in answer to our Report on the subject to your Honorable Board, that there is not any Law which exempts Governors of Colonies from payment of the Duties upon articles imported for their own use.

Liability of
governors to
pay duties.

We now beg permission to inform your Honourable Board that we transmitted your Honors' Letter to the Colonial Secretary for the information of His Excellency Major General Bourke, who directed the reply to be furnished us, Copy of which we now beg leave to enclose for the consideration of your Honourable Board.

Since the period of our first addressing your Honors on this subject, His Excellency Major General Bourke has continued to import articles for his own use, directing us on each occasion to allow the same to be landed duty free. Copies of the Colonial Secretary's Letters with these Directions, we have also the honor to transmit herewith.

Refusal by
R. Bourke to
pay duties.

As His Excellency declines paying us the Duties upon such articles as were imported by him on his arrival, and likewise on those imported by the Ship Pegasus, We respectfully request we may receive further directions from your Honorable Board on the subject.

We have, &c.,

J. BROWN, Actg. Collector.

BURMAN LANGA, Comp'r.

1833.
17 Aug.

[Sub-enclosure No. 2.]

HON. J. STEWART TO UNDER SECRETARY HAY.

Sir, Treasury Chambers, 19th April, 1833.

Liability of
governor of
Newfoundland
to customs
duties and
regulations.

The Lords Commissioners of His Majesty's Treasury having had under their Consideration Lord Howick's Letter of the 21st Ultimo, transmitting the Copy of a Dispatch from the Governor of Newfoundland, requesting to be informed whether as Governor of that Island any Baggage or articles imported by him are liable to search by the Custom House Officers and to payment of Duties, I am Commanded to acquaint you, for the information of Mr. Secretary Stanley, that there are no provisions in any of the Laws relating to the Colonies, which exempt the Baggage of Governors from the usual Search and examination at the Custom House, or the articles which they may import for their private use from payment of the Duties, to which they may be subject upon importation into the British Possessions abroad; and, with reference to that part of Sir T. Cochrane's representation, suggesting the propriety of an order being given for exempting his Baggage and Effects from the usual Search by the officers of Custom and from payment of Duties, upon the ground that the same is derogatory to his station as Lieutenant Governor of Newfoundland, I am desired to state that the Baggage and Effects of British Ministers upon their return from Foreign Embassies are not exempt from the usual Search, nor are the articles, with the exception of their wearing apparel, Household Goods and Equipage, and a limited quantity of Wine, exempt from payment of any duties of Customs, to which they may be legally subject; and, with respect to the privileges which the Ambassadors from Foreign Powers to the Court of Great Britain may enjoy of receiving articles for their own use free of Duty, such privileges are only granted under the special authority of this Board in each Case.

Under these Circumstances, and as no Privileges of the nature claimed by Sir T. Cochrane have been granted to the Governors of any other Possessions abroad, My Lords cannot perceive any grounds whatever for extending to Sir T. Cochrane a privilege, which is not even enjoyed by a British Minister upon his return from a Foreign Embassy; and a compliance with the present request would establish a precedent that would be attended with Consequences highly injurious to the British Service.

I am, &c.

J. STEWART.

GOVERNOR BOURKE TO UNDER SECRETARY HAY.

(Despatch per ship William Stoveld.)

Government House,

My dear Sir,

Sydney, 17th August, 1833.

Despatches
acknowledged.

Referring to my letter of the 29th June last, I have now to acknowledge the receipt of a Despatch from Lord Goderich of the 10th March last, No. 151, enclosing a Copy of the Order in Council for dissolving the Church and School Corporation and

by the same Vessel a Duplicate despatch of the 29th March, No. 158, The six intermediate numbers not having as yet arrived. As stated to you in my letter of the 29th June, I am under some embarrassment on the subject of Juries, not having received any instruction to institute them in their full extent though it would appear from Lord Howick's Speech in Parliament in June, 1832, that it was the intention to authorize or rather indeed that His Majesty's Government had authorized their complete establishment, Grand and Petit in Civil and Criminal cases in this Colony. My instructions, as you will perceive by referring to Lord Goderich's Memorandum of June, 1831, authorize no more than the substitution of Civil for Military Jurors on Petit Juries in Criminal Cases. My embarrassment has been increased by the opposition I have met in Council to the introduction of this substitution, The Opponents of Juries generally calling out for a *Grand Jury* to render as they say the establishment of a Petit Jury less dangerous. It is therefore above all things desirable that I should obtain Instructions from His Majesty's Government on the subject of Juries generally, and a reply to the application for the appointment of Circuit Courts contained in my despatch *6th February, 1832, No. 16*. The missing No. 122* has not yet arrived.

1833.
17 Aug.

Want of
instructions
re juries.

Opposition to
extension of
jury system.

I have received your letter of the 12th April last by Mr. Hoskins with its enclosures. I will pay every attention to the recommendations in favor of Mr. Hoskins, who has apparently been very careful of the Women during the Voyage out, and is now superintending their engagements with Families. They are going off very well, being but three days landed and nearly one fourth engaged.

Arrival of
J. Hoskins
and female
immigrants.

I am, &c.,

RICHD. BOURKE.

P.S.—Your public letter of the 12th April last being written by the direction of Mr. Secretary Stanley, I have addressed a letter to him, though I have not received any Official communication of his having received the Seals of the Colonial Department.

UNDER SECRETARY LEFEVRE TO GOVERNOR BOURKE.

(Despatch per ship *Lloyds*; acknowledged by Governor Bourke, 29th June, 1834.)

Sir, Downning Street, 18th August, 1833.

18 Aug.

I am directed by Mr. Secretary Stanley to refer you to the enclosed Statement of the value of certain Medicines, etc., which appear to have been delivered over to the respective Hospitals in New South Wales and Van Diemen's Land in the year

Report required
re disposal of
medicines ex
convict ships.

1833.
18 Aug.
Report required
re disposal of
medicines *ex*
convict ships.

1831 by the Surgeons of Convict Ships; and, as it does not appear, from any information, which has been communicated to this Department, in what manner these Articles are accounted for, I request that you will be good enough to acquaint me, for the satisfaction of the Secretary of State, whether these Articles have been duly appropriated to purposes connected with the Public Service, communicating to me at the same time any Regulations, which may be in force, with the view of preventing the possibility of Stores of a similar nature being disposed of in an improper manner.

I am, &c.,
JOHN LEFEVRE.

[Enclosure.]

[*A copy of this statement is not available.*]

GOVERNOR BOURKE TO UNDER SECRETARY HAY.
(Despatch per ship William Stoveld.)

Government House,

Sir, Sydney, 18th August, 1833.

Despatch
acknowledged.

I have the honor to acknowledge your letter of the 12th April last, informing me that the Ship *Bussorah Merchant* has been engaged to convey Female Emigrants to New South Wales, and directing by order of Mr. Secretary Stanley a payment to be made of six pounds for each Female landed in the Colony, and a Sum equal to that advanced by the British Treasury on account of the passage money of these Emigrants to be deposited in the Military Chest.

Arrival of
ship *Bussorah*
Merchant.

In reply, I beg leave to inform you that the *Bussorah Merchant* arrived at this Port on the 11th Instant, and has landed 215 Females,* for whose passage money I have directed the necessary payments to be made as intimated in your letter of the 12th April.

Payments for
immigrants.

I am, &c.,
RICHD. BOURKE.

RIGHT HON. E. G. STANLEY TO GOVERNOR BOURKE.
(Despatch No. 31, per ship Lloyds.)

19 Aug.

Sir, Downing Street, 19th August, 1833.

Approval of
arrangements *re*
revenue cutter.

In reply to your despatch No. 16, 1 Feby. last, I have to convey to you my sanction of the temporary arrangement therein reported for supplying the place of the Revenue Cutter at Sydney, which, however, will be superseded upon the arrival at

that Port of the New Vessel provided and equipped under the directions of the Board of Customs in pursuance of the communication made to you on the 18th of June, 1832, which Vessel appears to have sailed for New South Wales on the 9th of April last.

I am, &c.,
E. G. STANLEY.

1833.
19 Aug.
Departure of
new revenue
cutter from
England.

UNDER SECRETARY LEFEVRE TO GOVERNOR BOURKE.
(Despatch per ship Numa.)

Sir, Downing Street, 19th August, 1833.

I beg to recommend to your protection and good offices a Gentleman, named Carter, who has proceeded to New South Wales with the intention, I believe, of establishing himself at Sydney as a General Merchant. Mr. Carter has been introduced to me by the Lord Chief Justice, who has represented him to me as bearing an excellent character.

Recommendation of Carter.

I am, &c.,
JOHN LEFEVRE.

GOVERNOR BOURKE TO UNDER SECRETARY HAY.
(Despatch per ship William Stoveld; acknowledged by under secretary Lefevre, 11th February, 1834.)

Sir, Government House, 19 August, 1833.

I have had the honor to receive your letter of the 7 December last, calling for a Report upon a case heard before the Police Bench at Sydney on 27th April, 1832, connected with the treatment of their assigned Servants by Messrs. Berry and Woolstonecraft, and brought under the notice of Viscount Goderich in a Letter addressed to His Lordship by Mr. E. S. Hall, Editor of the Sydney Monitor. I have the honor to transmit a copy of the Depositions taken upon this occasion, and to remark that nothing appears from them to fix on Messrs. Berry and Woolstonecraft a charge of neglect in furnishing their assigned Servants with the qualities of food, clothing and other articles, ordered for them by the Regulations of this government. If it had been possible to have substantiated a complaint of this nature against them, there is little doubt but the assigned Servants would have brought it forward, whereas the assertion was made solely as an excuse for their misconduct and was not considered by the Magistrates as deserving of any attention.

Alleged maltreatment of assigned servants by A. Berry and E. Wollstonecraft.

Evidence against charge.

Where any neglect of an Assignee in furnishing his Servant with the necessary supplies is proved, the Convict is usually withdrawn, and the Assignee, if his conduct appears to have been flagrant, is prohibited from receiving others in future.

Practise in cases of maltreatment of assigned convicts.

1833.
19 Aug.
Conviction and
punishment of
P. Simpson.

Instances of this nature, though occasionally met with, are not of common occurrence; but an example is to be found in the case of Mr. Pearson Simpson as reported in the same Sydney Monitor, which contains the letter addressed upon this subject to Lord Goderich by Mr. Hall. The assigned Servants of this Individual were at the recommendation of the Magistrates withdrawn from his Service, and an Order issued by The Governor that he should receive no more.

I have, &c.,

RICHD. BOURKE.

[Enclosure.]

DEPOSITION.

Deposition
re assigned
servants of
A. Berry and E.
Wollstonecraft.

WILLIAM LAHEE Pr. Marquis of Huntly for Life, John McCullen Pr. Flora for Life, and James Burnstock Pr. Royal George for Life, and Charles Dunn Pr. Midas for 7 years, all assigned to Messrs. Berry and Wollstonecraft.

SYDNEY, } JOHN MATTHEWS, Clerk in the employ of Messrs. Berry
To Wit. } and Co., maketh Oath and Saith the Prisoners at the
Bar are Assigned Servants to Messrs. Berry and Wollstonecraft. William Lahee is very idle and is generally insolent. McCullen absconded from his service on the 9th March, and was brought back by a Constable a few days after; he then refused to work. Burnstock endeavoured to abscond while on board Mr. Wollstonecraft's Barge and refused to work, and Dunn absconded from his service and I found him the same day fourteen Miles from his Station. Messrs. Berry and Wollstonecraft wish to return all the Prisoners to Government. I know that Dunn has no leave to be where I found him. Lahee has been ill for 2 months. Cullen has had all his Slops excepting a Frock. I cannot say whether Burnstock has had a Blanket for the last three years. I do not know if Dunn has had Shoes at the last issuing day. I cannot say whether Dunn has had Soap for the last 7 Months.

J. A. MATTHEWS.

Sworn the 27th day of April, }
1832, before CHAS. WIN- } Prisoners all returned to Gov-
DEYER, Asst. Police Magis- } ernment by desire of Master-
trate. }

A True Copy:—F. Rossi, P. Supt. of Police.

RIGHT HON. E. G. STANLEY TO GOVERNOR BOURKE.

(A circular despatch per ship Lloyds.)

Sir,

Downing Street, 20th August, 1833.

I have the honor to transmit to you herewith, for your information a copy of a letter which has been received at this Department from the Secretary to the Board of Trade, with a Copy of a Volume of Tables,* recently constructed in that Department, and presented to Parliament by Command of His Majesty, compiled from Official Returns, and containing abstracts of the Revenue,

20 Aug.
Transmission
of letter from
board of
trade and
parliamentary
papers.

Population, Commerce, etc., of the United Kingdom and its Dependencies, during the twelve years from 1820 to 1831 inclusive.

1833.
20 Aug.

It has for many years past been the earnest endeavour of that Department of the Government, which is now entrusted to my charge, to impress upon yourself or your Predecessors the importance of supplying with regularity and dispatch the most accurate materials of information upon all those subjects, which form the contents of the Blue Book; and, without entering at present into an examination of the causes which have prevented the Board of Trade from deriving all the information which they could have desired from that Book, I will only now point your attention to the additional and perhaps more serious responsibility under which you are undoubtedly placed, in regard to the regular transmission of the Statistical Returns of the Colony under your Government.

Necessity for prompt and accurate returns.

I have, &c.,

E. G. STANLEY.

UNDER SECRETARY HAY TO GOVERNOR BOURKE.

(A circular despatch per ship Lloyds.)

Sir, Downing Street, 20th August, 1833.

I am directed by Mr. Secretary Stanley to acquaint you that he attaches so much importance to the punctual transmission of the Blue Books from the Colonies that he is unwilling that any cause of delay should exist, which he has the power of obviating; and, as such a contingency might arise from the non-arrival in the Colony, at a sufficiently early period, of the Blank Blue Book, which is now sent out annually from this Country, I have the honor to transmit to you six blank copies, which you will reserve until you may have occasion to make use of them.

Transmission of blank copies of "blue book."

I remain, &c.,

R. W. HAY.

GOVERNOR BOURKE TO RIGHT HON. E. G. STANLEY.

(Despatch No. 64, per ship William Stoveld; acknowledged by right hon. E. G. Stanley, 12th February, 1834.)

Sir, Government House, 20 August, 1833.

I have the honor to transmit an application from Mr. E. S. Hall, requesting that Instructions may be given by The Secretary of State for the Assignment to him of three competent Convict Mechanics, for whose services he proposes to pay a yearly sum of £18.

Request by E. S. Hall for assignment of convict mechanics.

I cannot recommend a compliance with Mr. Hall's application, whilst the existing arrangements for the Assignment of Convict

1833.
20 Aug.

Objections to disposal of convict labour by sale.

Servants authorizes no such proceeding. The propriety of disposing of Convict labor by sale in the Penal Colonies has more than once been considered, I believe, by His Majesty's Government and the Local Authorities, and such difficulties have appeared to interpose as to prevent any attempt for carrying the project into execution.

I have, &c.,
RICHD. BOURKE.

[Enclosure.]

[A copy of this letter is not available.]

GOVERNOR BOURKE TO RIGHT HON. E. G. STANLEY.

(Despatch No. 65, per ship William Stoveld; acknowledged by right hon. E. G. Stanley, 7th February, 1834.)

Sir, Government House, 20 August, 1833.

In my letter to Mr. Under Secretary Hay, dated 14th February last, I communicated to him that, in consideration of the recommendation contained in his Letter of the 27th April preceding, I had with the advice of the Executive Council let on lease for 7 years to Mr. Alexander Fotheringham a piece of Land on Darling Harbour as a Site on which to place his Patent Slip. I have since received the accompanying Letter signed by several of the most respectable Merchants of this Town, requesting that the Land Mr. Fotheringham now holds on lease may be confirmed to him as a Grant. To this application, I beg leave to add my recommendation. I consider the introduction to be of great importance to the trade of this Port; and, as he has already expended a considerable sum in its erection, I beg leave to submit that this allotment would be well bestowed as an encouragement and a reward for the Spirit of enterprize, which Mr. Fotheringham has displayed and the difficulties he has encountered. If the apprehension of establishing an inconvenient precedent should deter His Majesty's Government from making Mr. Fotheringham a free grant of Land, I would recommend that his present lease for seven years at a Rent of £20 per annum should be converted into a Building Lease say for 91 years.

I have, &c.,
RICHD. BOURKE.

[Enclosure.]

MERCHANTS TO GOVERNOR BOURKE.

Sir, Sydney, 8 July, 1833.

We, the undersigned Ship Owners, Merchants and others, beg to represent to your Excellency the great advantage afforded to the Colony but more particularly to the Shipping Interest by the Introduction of the Slip for heaving Vessels out of the water. The rise and fall of the Tide not being sufficient for the construction of

Lease of land to A. Fotheringham for patent slip.

Proposed conversion of lease into grant.

Request by merchants for land grant for A. Fotheringham.

Dry Docks without this Invention, we could never have possessed the means of giving that complete repair to vessels which is so essential in a port whose Trade is so extensive and so rapidly increasing.

The facilities, which have been proved to be afforded by the Slip, fully convince us of its great importance to the Colony, the Commerce of which is also likely to be increased by the knowledge that Ships can be repaired here to any extent.

It will be obvious to your Excellency that this undertaking could not have been accomplished without a very considerable investment of Capital and great personal enterprise, entitling the Proprietor to every assistance which can be afforded him by the Colonists. Under this impression, we beg Your Excellency will be pleased to give Mr. A. Fotheringham every assistance in your power in the further prosecution of his plans, and will also be pleased to recommend to His Majesty's Secretary of State that the land his Slip now occupies should be granted to him in consideration of his having already expended so large a Capital upon it, and as a reward for his having introduced an invention of such great practical utility into the Colony.

We have, &c.,

RICHARD JONES.

GEO. BUNN.

CAMPBELL and Co.

ALEX. BERRY.

R. CAMPBELL, Junr., and Co.

WM. DAWES.

THOMAS GORE.

ASPINALL BROWN and Co.

JOHN JAMISON.

J. BLAXLAND.

WM. WALKER and Co.

T. H. N. M. HOFFNER.

JAS. B. BETTINGTON.

THOS. BARKER.

A. B. SPARK.

THOS. SMITH.

E. LOCKYER.

JOSEPH SALTER.

ALEX. E. DARE.

EDWIN PARK.

T. F. STEAD.

J. BARROW MONTIFIORE and Co.

P. DE MESTRE.

JOHN McLAREN.

JOHN F. CHURCH.

1833.
20 Aug.

Request by
merchants for
land grant
for A.
Fotheringham.

RIGHT HON. E. G. STANLEY TO GOVERNOR BOURKE.

(Despatch No. 33, per ship Lloyds; acknowledged by Governor Bourke, 15th January, 1834.)

Sir, Downing Street, 21st August, 1833.

21 Aug.

The subject, connected with the discipline of the Convicts after their arrival at the Place to which they may have been transported, has lately engaged the serious consideration of His Majesty's Government, the life which a few of the Convicts are compelled to lead at Norfolk Island and at other of the minor penal Settlements, although it may be, as it undoubtedly is, one of a very irksome and painful description, producing, I fear, but little effect upon those of their Companions in Crime in this Country upon whom it is intended chiefly to operate, when they contemplate the lot of by far the greater number of Prisoners who are assigned to the Settlers, and the comparative ease and freedom from restraint which they then enjoy.

Problem of
discipline of
convicts.

1833.
21 Aug.

Necessity for
convict labour
for settlers.

I am fully aware of the importance of Convict Labour to the prosperity of the Australian Provinces, and until a sufficient quantity of free Labour shall have been introduced into them, those Colonies would suffer materially from any alteration in the System; but I have always entertained great doubts as to the efficacy of transportation according to the principle of assignment, which has hitherto been adopted, and that the present mode of dealing with Convicts is liable to many objections.

Alternative
reforms
proposed.

To improve the present System of Secondary punishment, either the species of rigid and solitary confinement practised in the United States of America should be resorted to, or the Prisoner after Conviction should be sent off at once to the place of his banishment. To build such Prisons in this Country, as would be adapted to the reception of Prisoners condemned to close confinement, would be an undertaking far too expensive to admit of the adoption of the first of the above alternatives; to which I would add that, unless solitary confinement upon the American Plan should prove conducive to the reformation of the Convict, much evil would result by his being let loose again upon the community, an evil which would not be experienced, if he were sent away altogether from the Kingdom.

Preference for
transportation.

The question of transportation having been thus decided upon in preference to that of Solitary confinement in Prisons or on board the Hulks in this Country, it becomes necessary next to consider, with the view of giving all practicable effect to that description of punishment, first, how far it may be possible to remedy the inconvenience, which has been pointed out as resulting from that part of the present system, by which Prisoners sentenced to transportation are detained in the Hulks to the Manifest extinction of every Spark of good principle, which, though dormant, may be still existing within the Breasts of many of them; Secondly, what measures can be adopted for imposing a heavier weight of punishment upon all those who are transported, whether by compulsory labour at the discretion of the Colonial Government, previous to assignment, or by sending the more notorious offenders at once to the more penal Settlements, or whatever other means may be adopted with the best prospect of success.

Necessity for
detention
pending
transportation.

In regard to the first point, I may observe that, as Convicts cannot be sent out to the Australian Colonies except under certain custody and in particular vessels, portions of those to be embarked must remain in prison at home, until a sufficient number shall be ready and can be collected to freight a Vessel for their conveyance.

With respect to the treatment of Prisoners after they shall have been transported, His Majesty's Government have determined to adopt the principle of subjecting them at once to different degrees of severity according to the Magnitude of their offences and the notoriety of their previous course of life; and, as I am convinced that no measure would be so effectual for removing the very erroneous notions, which still exist in this Country, that transportation is rather a boon and a benefit than a State of suffering and punishment, such of the Prisoners, whom it may be found desirable to subject after conviction to greater severity and restraint, will be apprized, when sentence is passed upon them in this Country of the degree of rigour which will be applied to them when they shall reach the Place of their destination.

1833.
21 Aug.

Gradation of
punishment
after
transportation.

His Majesty's Government therefore propose that Criminals of the most hardened character shall, in addition to their usual sentence of transportation beyond the Seas, be subjected to confinement at Norfolk Island or Macquarrie Harbour, according to the discretion of His Majesty; and, in the case of those whose crimes have been less enormous and of whose repentance and reformation greater hopes may be entertained, severe labour on the Roads in the Chain Gangs should be imposed.

Certain convicts
to be sent to
penal
settlements;

and others to
labour in
chain gangs.

The minor Class of offenders will be sentenced, as before, without any other restrictions as to their subsequent discipline than it has been usual to impose, the Governor being thus at liberty to distribute them throughout the Colony as assigned Servants according to the System which has hitherto prevailed. Excepting upon the grounds of economy, I cannot however see any reason why all newly arrived Convicts should not, without exception, be sent to labour at the public works, and that any relaxation from this severer duty should be the result of a perseverance in good conduct for a certain time.

Minor class of
offenders to
be assigned as
servants.

It is not intended by these arrangements to deprive you of the power, which you possess in respect to the Convicts generally of mitigating the Sentences of the particular class of Offenders to which I am adverting, altho' greater restrictions will be imposed upon you in the exercise of it. These restrictions will be as follows:—

Restrictions
on power of
governor to
mitigate
sentences.

1st. That no Prisoner, who may have been sentenced in this Country to transportation for life, and to confinement in Norfolk Island or Macquarrie Harbour, as the case may be, or to any other penal Settlement to which the respective Governors may think it proper to send the Convict, shall be withdrawn from them, until he shall have undergone at least seven years of his Sentence; that he should then, if the Governor should deem him

1833.
21 Aug.

Restrictions
on power of
governor to
mitigate
sentences.

deserving of such mitigation, be transferred to the Chain Gangs (performing the same hard labour as the other Convicts attached to these Gangs), where a further probationary period of five years will be required of him before his condition be further ameliorated by his assignment to a Settler.

2ndly. That no Prisoner, who may have been sentenced in the first instance to transportation for life and to the Chain Gangs, should be eligible for any indulgence until he shall have laboured in these Gangs for seven years, the period which is prescribed in the case of the Convict who may be sentenced to Norfolk Island or Macquarrie Harbour.

And generally that, in the possible case of transportation in the first or second degree for fourteen or seven Years, the Governor should not have the power of mitigating the sentence by removal to the next class, until one third of the period shall have expired.

Limited
capacity
of penal
settlements.

I am aware that the capacity of the penal settlements at Norfolk Island and Macquarrie Harbour for the reception of Convicts is very limited, and that no great addition can be made to the number of those, who are at present confined there, without some augmentation of the Military force by which they are guarded, as well as increase of expense. In the first Instance, therefore, none but the worst description of Criminals will be sentenced to that species of extra punishment. Those however, whom it may be deemed right to sentence to hard labour on the Roads in the Chain Gangs, will not be so limited, the local Govern. possessing greater facilities for the disposal of them.

Details re
convicts to be
transmitted.

I have only in conclusion to acquaint you that, with a view to the carrying into effect the proposed measure, and of securing the application of that degree of rigour according to the before mentioned Scale, which may appear to be suited to the circumstances of the case, His Majesty's Government will take care that information be duly transmitted to you as to the different Classes of offenders, both with regard to the magnitude of their Crimes, and the degree of infamy which attaches to their respective characters.

I have, &c.,
E. G. STANLEY.

GOVERNOR BOURKE TO RIGHT HON. E. G. STANLEY.
(Despatch No. 66, per ship William Stoveld.)

Sir, Government House, 21st August, 1833.

Transmission
of letter from
C. D. Riddell.

At the request of the Colonial Treasurer of this Colony, I have the honor to transmit a letter addressed to you upon the subject of his duties as Member of the Board for the Assignment of Convict Servants. That you may be aware of my opinion

upon this matter, I beg leave to refer you to the enclosure to my despatch of the 2nd April, 1832, No. 45, and to my despatches of the 29th June and 3rd August last, Nos. 54 and 59. I entirely agree with Mr. Riddell as to the responsibility attached to the office, and I consider it of great importance that its duties should be discharged with diligence and impartiality. That they have heretofore been conducted in a manner very satisfactory to the Majority of the Public is I believe acknowledged; and, although I have no doubt that such will continue to be the case under the present arrangement, yet, in consideration of the importance of the task and the onerous and invidious nature of the employment, I respectfully beg to add my recommendation to that of the Colonial Treasurer that the Officers engaged in the assignment of Convicts in this Colony should receive a Salary for the performance of that duty.

I have, &c.,

RICHD. BOURKE.

1833.
21 Aug.
Importance of
duties of board
for assignment
of convicts.

Salaries
proposed for
members of
board.

[Enclosure.]

COLONIAL TREASURER RIDDELL TO SECRETARY OF STATE.

Sir,

Sydney, 19th August, 1833.

As Lord Goderich has lately determined that the Board for the assignment of servants shall be conducted without remuneration to the members of which it is composed (proceeding I believe on the supposition that after the business connected with the qualification of emigrants to receive grants of land (from which it was called the Land Board) was done away, what remained, viz., The assignment of the convicts was a matter of so little trouble and responsibility, as not to call for any remuneration), I have the honor to lay the following circumstances before you with the view of shewing that his Lordship must have been misinformed as to the original duties of the Land Board.

Abolition of
payment to
members of
board for
assignment of
convicts.

And first I beg to state that, altho' the duty of assigning convicts was attached to the office of Land Board, *that* duty was always considered as the most onerous of any, which the members of the Land Board had to discharge.

Duties of
board.

The taking down the statements of emigrants relative to their capital was comparatively a mere trifle. It occupied very little time and no thought or arrangement.

The principal labor consisted in the assignments, and I am prepared to show that this Labor has been much increased since the abolition of the Land Board.

In this place, it may not be improper to state that the arrangement of General Darling, when I was appointed 1st Member of the Board, was, to constitute Mr. Jas. Busby now the British

1833.
21 Aug.
Constitution
of board
proposed by
R. Darling.

resident at New Zealand, clerk of the Board, with a salary of £300 per Annum. The whole duty of arranging the list of applicants and registering the assignments and of actually assigning the convicts was to devolve on that gentleman. But, as it was a very responsible and invidious office, the Board was to be constituted of three unpaid officers, whose interference was not anticipated, who might or might not take part in the business but whose appointment was considered as a protection to the officiating person.

Reduction
of board.

Genl. Darling failed to procure the services of Mr. Busby in this capacity, and he accordingly continued the pay to the members of the Board as they were obliged to take the laboring oar. We were at first 3 members and were shortly afterwards reduced to 2 and a clerk was appointed with a Salary of £130 a year.

Necessity for
daily
attendance of
one member.

From the time that the name of the Board was changed to its present denomination, from the increasing population of the Colony and the consequent increase in the number of applications for convict servants, it has been found necessary, in order to enable the Clerk to keep the register regularly, that one of the members should attend the Board every Day. No application is registered which has not been inspected and indorsed by a member of the Board. The monthly applications have sometimes amounted to 300, Besides those which have been returned to parties on account of some irregularity, the nature of which is always stated on the application by a member of the Board. Besides the regular applications, there are innumerable letters relating to assignments. These contain complaints or remonstrances or recitals of hardships, all of which are read and must be answered in some way or other.

Number of
applications.

Minuting of
letters by
C. D. Riddell.

I have established a very short way of doing this, by writing myself on the corner of the letter what occurs to me as the proper answer and returning it to the writer; in doing so, the expense of at least two clerks is saved to the Government, and I believe the applicants are satisfied with it. I have thus been in the habit of transacting business *every day* at the Board generally for about an hour each day, when no assignments are to be made. But, upon the arrival of a convict ship, or the receipt of lists of convicts already in the Colony for assignment, the time occupied is greatly increased. To assign a shipload of 200 Convicts occupies from 5 to 6 hours of constant and assiduous attention, and so in proportion to the other lists.

Time occupied
in assignment
of convicts.

Control of
transfers of
convicts.

The duty of recommending the transfer of convicts from one master to another also devolves upon Board.

I may add that accounts have reached the Colony that many more Convicts are to be sent out than formerly; if so, of course the labors of the Board will be proportionately increased.

1833.
21 Aug.

As to the responsibility of the office and the mode in which the duties of it should be conducted (and I hope have hitherto been conducted), I leave it to his Excellency the Governor to State.

I have already shewed that the office is no sinecure; and, as the demand for convict labor greatly exceeds the supply of convicts for assignments, and selections from amongst the applicants must consequently be made, I need hardly add that a great deal of odium is attached to it.

Labour and
results of office.

In conclusion, the vote for the Amount of our salaries had passed the Legislative Council before his Lordship's despatch arrived in the Colony. I believe, I may safely say, that no member of that Council, acquainted as every one of them is with the duties of the office, conceived that £100 a year was an adequate remuneration to the members, much less had any intention of recommending that sum to be discontinued.

Opinion of
council re
salaries of
members.

Hoping that I have advanced sufficient reasons why the office of a member of the Board for the assignment of convicts should not be imposed gratuitously upon any civil officer of the Government,

I have, &c.,

C. D. RIDDELL,

Col. Treasurer. 1st Member of the Assignment Board.

RIGHT HON. E. G. STANLEY TO GOVERNOR BOURKE.

(Despatch per ship Fairlie.)

Sir,

Downing Street, 22nd August, 1833.

22 Aug.

I have received your Despatch No. 15 of the 25th of January last, accompanied by a Petition from John Hogan, an Irish Convict, praying for compensation for the injury which he has sustained in consequence of an error in the Indent under which he was assigned. And I now beg to acquaint you, in reply, that, as it appears upon reference to the Irish Government that Hogan, who was tried at the Nenagh Special Sessions in Sept., 1822, and sentenced to seven years' transportation, has been treated as a Prisoner for a period subsequent to the expiration of his original sentence, there will be no objection to your paying to this person the sum of fifty pounds as proposed in your despatch, by way of compensation to him for not having received his freedom at the time at which it ought to have been granted.

Despatch
acknowledged.

Compensation
for J. Hogan
for error in
sentence.

I am, &c.,

E. G. STANLEY.

1833.
22 Aug.

GOVERNOR BOURKE TO RIGHT HON. E. G. STANLEY.
(Despatch No. 68, per ship William Stoveld; acknowledged by
right hon. E. G. Stanley, 15th February, 1834.)

Sir, Government House, 22nd August, 1833.

With reference to Viscount Goderich's despatch, No. 123, dated 20th August, 1832, upon the state of the Roman Catholic Church of New South Wales, in which His Lordship expressed the willingness of His Majesty's Government to cooperate with the Legislative Council in the appointment of one or more Roman Catholic Chaplains in this Colony, I have the honor to inform you that, having brought the question under the consideration of the Council, the sum of £900 has been voted and placed on the Estimates for 1834 to defray the Salaries of Six Roman Catholic Chaplains, and a further sum of £600 towards the maintenance of Schools for Children of that Religion.

Vote for Roman
Catholic
chaplains
and schools.

An addition has thus been made of four Chaplains, whom it is intended to distribute throughout the Colony by placing one at each of the principal Towns. These additional appointments I by no means consider as more numerous than the wants of the Roman Catholic population of the Colony demand; and, in the selection of Persons to perform the duties, I would respectfully suggest that every precaution be used to secure zealous and efficient Clergymen. To this end, I beg leave to call your attention to the concluding Paragraph of the accompanying letter from the Vicar General, The Revd. W. Ullathorne, who suggests that no Persons be appointed to these situations, who have not previously been approved by Dr. Bramston, the present Roman Catholic Bishop of London. In recommending this suggestion to your favorable consideration, I think it right to remark that two of the three Roman Catholic Chaplains at present in this Colony are Irishmen.

Proposed
selection of
chaplains.

I have, &c.,

RICHD. BOURKE.

[Enclosure.]

REVD. W. ULLATHORNE TO COLONIAL SECRETARY MACLEAY.

Sir, Chapel House, Hyde Park, Sydney, 29th April, 1833.

Want of Roman
Catholic
chaplains.

I beg leave respectfully to Submit to the notice and consideration of His Excellency the Governor the painful and distressing Situation in which a great proportion of the Roman Catholics of this Colony are placed from the want of Spiritual Pastors.

And with humble deference to submit to the judgment of His Excellency, that it would be expedient in point of policy, just in point of Right, economical in point of Expenditure, and in every sense advantageous to the Colony that this their pressing need should by His Majesty's Government be provided for.

It is an undisputed fact that about *one third* of the population of this Colony are Roman Catholics.

Proportion
of Roman
Catholics to
population.

For this large proportion of the people of N. S. Wales, spread over a vast extent of Country, there is at present an Establishment of three Clergymen provided; besides these there is one very active, zealous and laborious Clergyman,* who is at present entirely dependent on the people for his Support.

1833.
22 Aug.
Chaplains appointed.

These four Clergymen are anxious to extend the labours of their Ministry as much as possible to meet the exigencies of their people. But the Catholics are too numerous and widely spread for their exertions to extend to all; and, whilst they are giving their personal attention to one part of the Colony, the others must be neglected; and moreover it is utterly impossible to effect much permanent good unless the pastor be constantly with his flock, that he may thoroughly know them, be known unto them, and have them under his constant care and direction.

I beg leave respectfully to Submit to His Excellency that the supplying this great want of the Roman Catholic Population would be expedient in point of Policy. The good order of Society and Obedience to the Laws depend on the Morality of the Members who compose it; personal immorality and the violation of the Laws would receive a great check amongst Catholics by the influence and exertions of Pastors permanently residing amongst them. Their interference would put a Stop to much strife and public disorder; they would be often resorted to by the people as arbiters, as helpers in their distresses. They would produce all the good effects of a vigilant, zealous and disinterested Police, added to the functions of the Pastor and Overseer, with much more and more permanent efficiency.

Advantages of appointment of additional chaplains.

That it would be just in point of Right; the Catholics of this Colony See the fruit of their labors Constantly going out of the Public Treasury to Support of three different Religious Establishments; they do not forget that the Members of the English and Scottish Churches equally Contribute their proportion; But they Cannot be, and are not blind to the fact of the immense disproportion, the respective numbers of each Religious profession Considered, between what has been done out of the Public Purse for the English and even the Scottish Church and what has been done and provided for their own Church; until the Roman Catholics see themselves provided with Pastors in due proportion to the provision Allowed the other Churches, they must feel and Complain that a disproportionate burden of the Support of Religion in this Colony lies upon them. They feel confident that they have a claim of Justice in the Matter and that His Excellency will not pass their Claim by.

Claim of Roman Catholics to further financial support.

I respectfully submit further that it would be economical in point of Public expenditure that the expense of Supporting a Catholic Clergyman in each of the Towns in the Interior would be more than Compensated by the Saving of expense in the discovery, prosecution, and punishment of Crime and the violation of the Laws, which their influence and exertions would prevent.

Influence of chaplains in prevention of crime.

That it would remove a prime obstacle to the emigration of Catholics of Moral worth, character and respectability into this Colony, such persons being unwilling to expose themselves to the certainty or even probability of being deprived of the assistance of their Clergy.

I beg leave to State respectfully my Confidence that these reasons will be found of importance and weight Sufficient to induce His

* Note 45.

1833.
22 Aug.

Excellency the Governor, whose Zealous attention to every thing tending to the Moralisation of the Colony emboldens my Confidence, to recommend to The Right Honorable Secretary for the Colonies that the principal Towns in the Interior of this Colony may be Supplied with Roman Catholic Clergymen.

Necessity for approval of chaplains by bishop of London.

Should my respectful application be approved of, I beg leave further to recommend that, in order to insure the providing of proper persons, no Clergyman should be sent out, unless approved of by the Catholic Bishop of London, at present Dr. Bramston.

I have, &c.,

W. ULLATHORNE.

UNDER SECRETARY LEFEVRE TO GOVERNOR BOURKE.

(Despatch per ship Fairlie.)

26 Aug.

Sir,

Downing Street, 26th August, 1833.

Additional convict per ship Amphitrite.

With reference to Mr. Hay's letter of the 22d Instant, transmitting the assignment List of 100 Female Convicts per "Amphitrite," I am directed by Mr. Secretary Stanley to acquaint you that it appears, by a letter addressed to the Home Office by the Surgeon Superintendent of the Amphitrite, that, since the preparation of the Assignment List of the Convicts embarked in that Ship, another Woman, named Margaret Dunbar, has been sent on board from the Gaol at Elgin, the particulars of whose conviction are herewith enclosed for your information.

I am, &c.,

JOHN LEFEVRE.

UNDER SECRETARY LEFEVRE TO GOVERNOR BOURKE.

(Despatch per ship Fairlie.)

30 Aug.

Sir,

Downing Street, 30th August, 1833.

Transmission of letter from R. L. Appleyard.

With reference to your letter to Mr. Hay of the 6th of Jany. last, enclosing a letter of explanation regarding the affairs of the late Colonel Mills, I am directed by Mr. Secretary Stanley to desire that you will forward to Mr. Moore the enclosed letter from Mr. Appleyard, which as you will perceive contains a refutation of the grounds on which Mr. Moore had complained of inattention on the part of the latter Gentleman to the Estate and Concerns of the deceased.

I am, &c.,

JOHN LEFEVRE.

[Enclosure.]

MR. R. L. APPELYARD TO UNDER SECRETARY HAY.

In the affairs of the late Col. Mills of Sydney.

Sir,

Letter acknowledged.

I beg to thank you for the Copy of the letter of W. H. Moore, Esquire, of Sydney, N.S.W., of the 19th of December last addressed to the Colonial Secretary, in reply to my letter to him requesting Information as to the affairs of Col. Mills and will further trespass upon your kindness by requesting the favor of you to transmit to

Mr. Moore, thro. Mr. McLeay (and which I purposely leave open for his previous perusal), my reply to that Letter, by which Mr. McLeay will see that the complaints of Mr. Moore of my inattention to the Estate and Concerns of Coll. Mills were wholly unfounded.

I have, &c.,

ROB. L. APPELYARD.

1833.
30 Aug.

Denial of
neglect by
R. L. Appleyard.

[A copy of the sub-enclosure is not available.]

RIGHT HON. E. G. STANLEY TO GOVERNOR BOURKE.
(Despatch No. 36, per ship Fairlie.)

Sir,

Downing Street, 2d September, 1833.

2 Sept.

I have the honor to acknowledge the receipt of your despatch, No. 117 of the 20th Nov., 1832, transmitting a Memorial from Mr. Kentish, one of the Assistant Surveyors, complaining of the conduct of the Surveyor General towards him; and I have to desire that you will acquaint Mr. Kentish that, in the various instances of alleged inattention to his wishes and feelings upon which he grounds his complaint against the head of his department, I do not perceive any circumstances which should induce me to interfere in his case. The Surveyor General is alone responsible for the due performance of the important duties entrusted to his charge connected with the Survey of the Territory, and must, consequently, be the fittest person to decide as to the nature of the employment, which, with reference to the merits and qualifications of his Assistants, it may be proper to assign to them respectively. I am, therefore, much surprised that Mr. Kentish should have forgotten himself so far, as to enter upon so objectionable a correspondence as that which he appears to have adopted with the Superior of his Department.

Refusal to
consider
complaints by
N. L. Kentish.

In reference to the pecuniary claims brought forward by Mr. Kentish, I do not deem it necessary to offer any particular observations, as such claims will, of course, be adjusted by you, if conformable to any authorised principle, according to which it may be customary to provide for the extra-expences, incurred by Officers of the Surveyor General's Department in the discharge of their official duties; and, in respect to Mr. Kentish's claim for arrears of Salary from the time at which the augmentation would under ordinary circumstances have commenced, I have no directions to give, having, in my despatch of the 5th of June last, decided, in reference to the case of Mr. Jacques, that all annual augmentations of Salary must depend upon the Certificate, signed by the Surveyor General as to the general good conduct and zeal manifested by the party so applying for it, during the year preceding that on which the encrease may be claimed.

I am, &c.,

E. G. STANLEY.

1833.
3 Sept.

RIGHT HON. E. G. STANLEY TO GOVERNOR BOURKE.
(Despatch No. 37, per ship Fairlie.)

Sir,

Downing Street, 3d September, 1833.

Claim by
T. H. James
for refund of
duty on tobacco.

I transmit herewith for your information the copy of a letter addressed by Mr. Horton James, a Merchant established at Sydney, to my Under Secretary, in which he prefers a claim, under the circumstances therein stated, for the repayment of a Sum amounting to 3,000 Dollars which he has been called upon to make on account of duty on a quantity of Tobacco imported by him into New South Wales in the year 1824.

Previous
report by
Sir T. Brisbane.

On referring to Sir Thomas Brisbane's correspondence* at the period at which the transaction took place, out of which this claim arises, I find the following account of it, Vizt. :—

On the 24th of Novr., 1824, certain depositions were taken at the Police office of Sydney in the 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 3d Geo. 4, hath not prescribed any forfeiture, fines, or penalties in such cases."

It further appears that "the Magistrates had, under the opinion of the Attorney General, determined to transmit to that officer the Depositions taken in this case, to enable him to take such Measures as he should deem most effectual to prosecute Mr. James and the other Parties concerned in the Supreme Court."

As subsequently to the date of Mr. Horton James's letter to this Department, he appears to have returned to Sydney, I request that you will send for Mr. Horton James, on the receipt of this Despatch, and acquaint him that I do not consider his case to be one which calls for any interference on the part of His Majesty's Government.

Refusal to
grant refund.

I am, &c.,

E. G. STANLEY.

* Note 46.

[Enclosure.]

MR. T. HORTON JAMES TO UNDER SECRETARY HAY.

1833.
3 Sept.

Sir, London, 16th April, 1833.

When I had the honour of an interview with you some time back on the subject of my printed letter about the Sandwich Islands and the American Missionary System, as established there, I forbore to bring before your notice a matter that has been of the most serious importance to me in Sydney (having involved me in a loss of not less than £10,000), and which still remains unsettled, as I suppose waiting a sanction from your office.

Loss incurred
by T. H. James.

In 1824, the Naval Officer at Sydney gave me a permit to remove 50 packages of tobacco from the King's Stores to my own; the duty was nominally at that time 4s. Sterling pr. pound. I say nominally, because there is not one solitary instance in the books of the office that this duty was ever paid on a single ounce, every body, that could make his court to the Naval Officer, going to him and asking him for a permit when they wanted tobacco. The extravagance of the duty was preposterous, as the retail price was never more than 3s. pr. lb., while the nominal duty alone remained at 4s.

Duty on tobacco
in 1824.

My obtaining, however, so large a parcel at once as 50 Scions, and being as yet quite a Stranger in the Place, was considered a bold step and excited the greatest jealousy among certain dealers in Sydney; and information was given at the Police office that I had been Smuggling Tobacco, altho' the quantity in question was brought from the King's Warehouses to my own at noon-day by the usual public Carts, without any attempt at concealment whatever; And I was the more emboldened to adopt this (the usual mode of getting tobacco from the King's Stores, and the same way as all other Persons were getting it—by asking for it!), as it began to be rumoured from the singular wording of Sir Thomas Brisbane's Proclamation imposing the high rate of 4s. per lb. duty, *there really was no duty at all*, and my legal advisers, among whom was Dr. Wardell, gave me that opinion in writing. The Proclamation, as well as I remember was in this way or tenor:

Allegations of
smuggling
against
T. H. James.

“The Governor of N. S. Wales having been empowered by an Act of Parliament to impose any duty on Brandy not exceeding 15s., on Rum not exceeding 10s., and on Tobacco not exceeding 4s., be it therefore enacted that the said duties” (Qy. What Duties?) “do attach forthwith.” Was ever anything seen in the Shape of a Government Official Notice so loose, so undefined as this, and no wonder that nobody paid it. How it would have been treated in the Courts of Westminster, it requires very little sagacity to decide.

Proclamation
of duties.

But at any rate, weak as was this Proclamation, it was too strong for me, and I had a note from the Naval officer requesting a Check for the Duty. Not wishing to get Captain Piper into blame, I immediately returned a Draft on the Bank for 3,000 Dollars, the amount at a rough guess of what the duty would come to, thinking I could always get back my money upon exportation of the Tobacco *by way of drawback*, as the duty was of course only on consumption, and it was perfectly unsaleable at a higher rate than 3s. pr. lb.; and, as the Tobacco cost 2s. 6d. and duty 4s. making 6s. 6d. pr. lb., of course I was shut out of the market.

Payment
of duty.

The Naval Officer, however, suggested to me, seeing I could get no satisfaction in the way of drawback, that I should return the Tobacco into bond, and then throw myself as it were on the mercy of Sir Thos. Brisbane, who seeing and acknowledging the extremely

Suggestion by
J. Piper for
bonding of
tobacco.

1833.
3 Sept.

hard case, as it affected me, and not wishing that I should be the only payer of the high duty, would most likely order my 3,000 Dollars to be restored, and thus put things as it were *in statu quo ante*.

Alleged inability to obtain refund of money or possession of tobacco.

This was given as the Naval Officer's private opinion, and in an evil hour I consented and hired waggons to take back the 50 Scions into bond; I say in evil hour, for from that day to this, strange to say, I have never been able to obtain either Money or Tobacco; the Government at Sydney have kept both; and the Successor of Sir Thomas Brisbane, arriving shortly after to assume the Government, put a new feature on my case, that of total ignorance; and correspondence upon correspondence has only left me where I was; in the mean time, the Tobacco has partly been stolen from the premises and the rest is entirely rotton and worthless. After 9 years of writing in Sydney, I have to request that an order may now be transmitted to the Colonial Government to return me 3,000 Dollars and interest, which I have repeatedly applied for; or, if this cannot be complied with, that I may at least *have my tobacco*, which I so unguardedly returned into Store on the faith of getting back my money, and be allowed to export the same, receiving the Drawback; and that some satisfaction should be made me in addition for having nearly 5,000 lb. of Tobacco, worth 2s. 6d. pr. lb. all perished.

I have, &c.

T. HORTON JAMES.

RIGHT HON. E. G. STANLEY TO GOVERNOR BOURKE.

(Despatch marked "Private," per ship Fairlie.)

4 Sept.

Dear Sir, Downing Street, 4th September, 1833.

Difficulty created by statute for abolition of death penalty.

I have received your despatch, dated the 21st Novr., 1832, in which you point out several objections and difficulties which will attend the operation of the Act of the 2d and 3d Will. 4, Cap. 62, for abolishing the Punishment of Death in certain cases and substituting a lesser Punishment in lieu thereof. Had this Department been aware of the very injurious effect which would be produced on the Convicts, who had received Tickets of Leave by the operation of the 2d Clause* of the Act above referred to, which deprives Convicts of the right of holding, acquiring, or suing for the recovery of any property, the Government would not have agreed to the Clause, and the first opportunity will now be taken for so modifying it as to prevent the inconvenience which you have pointed out. The fact is that the particular Section of the Act, which has given rise to the difficulty described by you, did not form any part of the Bill, when it was first introduced into Parliament, the object of the Government being chiefly directed to the substitution of a milder punishment for the one which the Law previously inflicted in the cases enumerated, and which was considered too severe for the crime itself. In the progress of the Bill through Parliament, much opposition to the principle of it appears to have originated with Lord Wynford and other Legal Lords, at whose suggestion (and certainly

Clause depriving ticket-of-leave men of civil rights.

History of insertion of clause.

without sufficiently considering the effect of the amendment) the alteration or addition was made, the object of which was to prevent an offender, who might be convicted of a crime, for which Capital Punishment was formerly awarded and which was to be changed to transportation, from obtaining any further mitigation of his sentence or indulgence on his arrival in the Colony. I beg to add that the importance of an alteration in this respect is duly felt both by Lord Melbourne (who has been made acquainted with the consequences of this Clause as it now stands) and myself; but, for obvious reasons, neither of us have deemed it expedient to raise a discussion in Parliament upon the subject by bringing it forward during the past Session. In the mean time, you will use your discretion as to the course best to be pursued for meeting the difficulty.

I am, &c.,

E. G. STANLEY.

1833.
4 Sept.

History of
insertion of
clause.

Necessity for
amendment.

RIGHT HON. E. G. STANLEY TO GOVERNOR BOURKE.

(Despatch No. 38, per ship Fairlie.)

Sir, Downing Street, 5th September, 1833.

5 Sept.

I have received your Despatch No. 18 of the 4th February last, enclosing a Report of the Auditor General upon the state of his Department, and as to the number of Clerks whom he considers to be requisite for keeping the business of it from falling into arrear. And I now beg to acquaint you that the explanations, which this Report contains, are so far satisfactory that no further objections will be offered on the part of His Majesty's Government to the continuance, for the present, of the number of persons whom it is proposed to retain for the service of that Department, viz., six free Clerks with Salaries, the total amount of which will be £865 12s. 6d. per annum.

Acceptance of
report *re* clerks
in audit office.

In regard to any prospective reduction in the number of Clerks composing this Establishment, I shall abstain at present from offering any opinion; for, although the duties, now imposed upon the Auditor, of adjusting the arrear of accounts between the Colonial Government and the Commissariat Department will shortly cease, as well as those arising from the arrangement of the accounts of the Internal Revenue Department, yet a corresponding augmentation will devolve upon him in consequence of the measures recommended with respect to the collection of Quit Rent. I conceive, however, that the salary of the third Clerk may very properly be fixed at £150 per annum instead of £160, as you have proposed, to which former amount you will reduce it, whenever the Office shall cease to be filled by its present holder, to whom there will be no objection to allow the larger Salary

Prospective
reduction in
number of
clerks.

1833.
5 Sept.

Approval of
exclusion of
convicts as
clerks.

which he appears to have already enjoyed. In accordance, also, with the opinions respecting the employment of Convict Clerks, which have been expressed in the despatches of my Predecessors, and in which I most fully concur, I am prepared to forego the saving that might arise from retaining two of the Convict Clerks now attached to the Auditor's Department, in lieu of the fourth and fifth clerks on the Establishment as proposed by you, unless it should be found, as I am induced from the concluding part of Mr. Lithgow's report to infer may be the case, that the conduct of any of those Convict Clerks has been so unexceptionable, as to entitle them on that ground, as well as on the score of complete efficiency, to the privilege of being continued in the Audit office, the more especially as such a measure would obviously be attended with a diminution of expence.

I have, &c.,
E. G. STANLEY.

RIGHT HON. E. G. STANLEY TO GOVERNOR BOURKE.
(Despatch marked "Private," per ship Fairlie.)

6 Sept.

Arrangements
re appointment
of W. W. Burton
as judge.

Dear Sir, Downing Street, 6th September, 1833.

I have not thought it advisable to return any official reply to your Despatch of the 31st Decr., 1832, respecting the arrangement which you had made for investing Mr. Burton with the functions of a Judge in the room of Mr. Stephen, who had sent in his resignation, conceiving that all the difficulties, which have been felt (until a new Charter for the Colony shall be issued in conformity with the Provisions of the Act 9 Geo. 4, Cap. 83) in giving Mr. Burton a Commission from home, have been met by the Instrument issued by you and upon which Mr. Burton has been sworn into office. Neither do the other parts of your Despatch relating to Mr. Burton's Salary require any special Instructions, as every point connected with that subject appears to have been already provided for by the arrangement, specified to you in Lord Goderich's Despatch of the 23d December last, No. 146.

I remain, &c.,
E. G. STANLEY.

RIGHT HON. E. G. STANLEY TO GOVERNOR BOURKE.
(Despatch No. 39, per ship Fairlie.)

7 Sept.

Despatch
acknowledged.

Sir, Downing Street, 7th September, 1833.

I have to acknowledge the receipt of your Dispatch No. 29 of the 11th of March last on the subject of the privilege, which you claim of importing into New South Wales free of duty certain articles intended for your own consumption; but, having

anticipated this reference by a despatch, which, in consequence of a communication from the Treasury, I addressed to you on the 17th Instant, I have only to refer you to the decision which it contains.

1833.
7 Sept.

Reference to former despatch.

I am, &c.,
E. G. STANLEY.

RIGHT HON. E. G. STANLEY TO GOVERNOR BOURKE.

(Despatch No. 40, per ship Fairlie.)

Sir, Downing Street, 8th September, 1833.

8 Sept.

My Under Secretary has laid before me your Letter to him dated the 14th Feby. last, respecting a piece of Land which you had granted on Lease, under the circumstances therein stated, to Mr. Alexander Fotheringham on which to erect a Patent Slip; And I have to acquaint you, in reply, that I approve of your having granted a Lease of the Land in question to that Gentleman, in furtherance of an undertaking, which is likely to confer so great an advantage upon the trading part of the Community, although it must not form a precedent for departing from the Regulations in any future case, in which a Site of Land may be required in a particular situation for objects of a similar nature, as I conceive that the erection of any machinery, which is calculated to benefit the public, will ensure an adequate return to the proprietor without the necessity of relaxing any established Regulations in his favor.

Approval of lease to A. Fotheringham.

I am, &c.,
E. G. STANLEY.

GOVERNOR BOURKE TO RIGHT HON. E. G. STANLEY.

(Despatch No. 69, per ship Nelson.)

Sir, Government House, 12 September, 1833.

12 Sept.

I beg permission to call your early attention to the steps, which have been taken lately to extend the form of Trial by Jury in this Colony and to the difficulties, under which I am placed from the want of any sufficient intimation of the views of His Majesty's Government on this important subject. In order that you may be enabled to comprehend the actual state of Trial by Jury in New South Wales, and what is still left to be done for effecting the full and complete establishment of the institution, I will briefly bring before you the Instructions I have received, and the measures I have pursued.

Proposed extension of trial by jury.

Shortly before I left England to assume the Government of this Colony in the Month of June, 1831, I received certain Instructions from Lord Goderich in a conference which I had the honor to hold with His Lordship and Lord Howick, the

Instructions to R. Bourke re extension of trial by jury.

1833.
12 Sept.
Instructions to
R. Bourke *re*
extension of
trial by jury ;

and *re* circuit
courts.

Public opinion
in favour of
extension of
trial by jury.

Act proposed
by R. Bourke.

Debate in house
of commons.

Want of
instructions
from England.

substance of which was afterwards committed to writing and is recorded in Downing Street in a Minute signed with the initial of Lord Goderich. By those Instructions, I was authorized "to propose to the Legislative Council an Ordinance for the further extension of the Form of proceeding by Petit Juries in the Colony, namely in those Criminal Cases which are now tried by Military Juries, if upon enquiry I should be of opinion that such a change would be advantageous to the Community." I was "also further instructed that, if the establishment of Circuit Courts should appear likely to promote the better administration of Justice in New South Wales, Lord Goderich would, upon my application, take His Majesty's Commands for the promulgation of the Order in Council required by the Act of Parliament* to authorize the establishment."

Having soon after my arrival in this Colony taken such measures as appeared to me needful for obtaining competent information on the subject, I felt assured that the establishment of Trial by Jury was desired by a great majority of the Inhabitants of New South Wales, and that it might be introduced not only with safety but advantage. I communicated this opinion, and represented the expediency of establishing Circuit Courts in the Colony in a despatch, which I had the honor to address to Lord Goderich on the 6th February, 1832, No. 16, to which I beg leave to refer. It will be seen by that Despatch that, for the reasons therein assigned, I intimated† to the Legislative Council, at the opening of the Sittings on the 19th January, my intention of introducing a Bill for the extension of Trial by Jury in Criminal Cases, and for the introduction of Circuit Courts at the beginning of the next ensuing year, by which time I hoped to receive the Order of the King in Council authorising the establishment of the latter.

In the course of that year, an account of the debate‡ in the House of Commons on the 28th June reached the Colony, and it was generally supposed from the report of Lord Howick's speech that His Majesty's Government had determined to introduce Trial by Jury in the English form without further delay.

In the meantime, I received no reply whatever to my despatch of the 6 February, nor any official intimation of the views of His Majesty's Government on the important subject, to which it referred, nor the Instrument required for the erection of Circuit Courts. I had therefore in May last, when it became necessary to assemble the Council to appropriate the Revenues for the year 1834, to determine between the expediency of postponing any change in the Jury System, until I should be honored with a communication from His Majesty's Government, or of introducing

* Marginal note.—9 Geo. 4, Cap. 83.

† Note 48.

the partial measure which my instructions authorized. I thought it would be most for the benefit of King's Service to take the latter course, and to satisfy the expectation that had been raised as far as I was warranted. I therefore laid before the Council a Bill, which with some modification and not without Opposition has passed into a Law. I have the honor to transmit a Copy of the New Act, as it has been passed, together with one of the Act of last year to which it refers.

1833.
12 Sept.

Passing of act
of council.

This Bill was opposed by six out of seven of the unofficial Members and by the Archdeacon. It would, as I have reason to be assured, have received a negative from one if not two official Members, had I not agreed to an alteration* proposed and supported by the unofficial Members, by which the option should be left to the accused Party to be tried either by a Military Jury as heretofore or by a Jury of twelve Inhabitants. In consequence of this concession, the opposition, intended to be made by the official Members to the third or disqualification Clause, was withdrawn. The opposition to the passing of the Law was on the part of those, who desire to keep the Emancipists as they are called (being persons whose Sentences have expired or have been pardoned) in a state of entire disfranchisement. It was their wish to exclude those Persons expressly from Sitting as Jurors, maintaining that in England they would be considered as legally disqualified. To satisfy the Council on this head, the opinion of the Judges was asked and obtained, and the disqualification clause prepared in accordance with their opinion. A Copy of the opinion of the Judges is transmitted. The opposition to the Bill however in its altered form still continued in Council, and it was finally passed by my casting Vote.

Opposition to
passage of act.

Cause of
opposition.

Passing of act
on casting vote
of R. Bourke.

You will perceive, Sir, that the two Acts now forming one Legislative Instrument are copied in their form and principal provisions from the English Jury Act the 6 Geo. 4, Cap. 50. The qualifications are however made much higher here than in England, and will have the effect of procuring a description of Jurors (probably in some Districts to the exclusion of Emancipists) equal to the performance of the important duty, which Jurors are called on to discharge. The exemptions are much the same as in England; and, though the disqualification clause is more comprehensively expressed than that in the English Act, it is proposed to effect the very same object and no other. The right of challenge is also the same. The differences now existing between the British Jury system and this of New South Wales consists mainly in these particulars: 1st. There is no Grand Jury; 2nd. The Criminal will be tried either by seven Naval or Military Officers or by a Jury of twelve Civil Inhabitants of the

Explanation
of act.

Differences
between
British and
colonial
systems.

* Note 49.

1833.
12 Sept.

Colony, as he shall choose upon being arraigned in Court; 3rd. Civil Litigants will have their cases tried by a Judge and two Assessors, unless either of the Parties applies to the Court and obtains a jury of twelve men.

Limited
operation
of acts.

These Acts will expire on the 30th June, 1835; no further period was provided, as I must suppose that long before its expiration I shall obtain the Instruction to which Lord Howick alluded in his speech of the 28th June of last year and that a New Legislative Enactment will in consequence be necessary. By those Instructions, I hope to have authority for establishing Circuit Courts throughout the Colony, and for instituting Grand Juries throughout those Districts where the number of competent Persons can be found. In Sydney and the County of Cumberland, I have no difficulty in finding them. I would desire also to withdraw the Military Commission in all Criminal Trials; but I would still leave the Trial by Assessors* in Civil Actions, if neither of the Litigants should choose to apply to the Court for a Jury. The majority of Actions are still tried by the former in the Supreme Court at Sydney, as the Judges are empowered to refuse trial by Jury except in such cases as they deem proper to allow it; and probably the practise of trying by Assessors will be preferred in ordinary cases in the Circuit Courts of the Colony.

Request for
authority for
circuit courts
and grand
juries.

Trials by
assessors.

I have no doubt the Opposition, which this measure experienced in Council, would have been less, if I had received His Majesty's Commands to propose the complete Institution of the Jury System by Grand and Petit Juries. I did not, however, feel myself authorized to do more than what the Act now transmitted has effected. I am apprehensive indeed that the clause, which provides for the attendance of two descriptions of Juries, one Civil and one Military, at the same time, may work awkwardly; but without this condition the Council would have rejected the Bill. As it is, the Act may serve as an experiment and lay the foundation of a more perfect measure, when I shall have been honored by those further Instructions, which I have solicited and shall continue anxiously to expect. I have, &c.,

RICHD. BOURKE.

[Enclosures Nos. 1 and 2.]

[*These were copies of the acts of council, 2 Wm. IV, No. 3, and 4 Wm. IV, No. 12.*]

[Enclosure No. 3.]

[*A copy of the opinion of the judges will be found in a volume in series IV.*]

* Note 49.

RIGHT HON. F. G. STANLEY TO GOVERNOR BOURKE.

(Despatch No. 42, per ship Fairlie.)

1833.
19 Sept.

Sir, Downing Street, 19th September, 1833.

Your Despatch No. 22 of the 8 Feby. last, accompanied by a Schedule of alterations which have been made at New South Wales in the Convict Expenditure, and defrayed out of the Military Chest during the Quarter ended the 30th September, 1832, has been received; and, having referred the same for the consideration of the Lords Commissioners of His Majesty's Treasury, I now beg to acquaint you that their Lordships have notified to the Commissioners of Audit their sanction of the several charges referred to in order that they may be allowed in the Commissariat Accounts.

Approval of
adjustment
of convict
expenditure.

I am, &c.,

E. G. STANLEY.

RIGHT HON. E. G. STANLEY TO GOVERNOR BOURKE.

(Despatch No. 43, per ship Fairlie.)

Sir, Downing Street, 20th September, 1833.

20 Sept.

I have had under my consideration your Despatch No. 122 of the 24th December last, together with the application which accompanies it from Mr. William Dumaresq, relative to a Grant of Land, or compensation in lieu of it, which he claims under the circumstances therein detailed.

Despatch
acknowledged.

Without noticing any of the arguments which Mr. Dumaresq has brought forward in support of his claim, or examining very closely the terms in which General Darling's implied promise of a Grant in Hyde Park was given, I deem it sufficient to state that Mr. Dumaresq has not in my opinion any claim to compensation either in Land or Money for any disappointment he may have experienced. From his own shewing, it would appear that the Allotment offered to him at Woolloomooloo was intended to be bestowed upon him in 1827, when, as he states, it was determined to grant to the Civil Officers of the Government a portion of Land adjoining the Town of Sydney for the purpose of building Residences thereon, and when he "expected to be appointed to a Government Situation in the Colony for which he was recommended." It does not appear, however, that Mr. Dumaresq received the appointment to which he here alludes, nor that he ever held any employment under the Colonial Government, excepting such as he may have filled provisionally; and, although in all probability, had he accepted the Grant at Woolloomooloo, when it was originally offered to him under the authority of General Darling, he would not afterwards have been disturbed in the possession of it, yet I cannot admit that he had

Refusal of
compensation
for
W. Dumaresq.

1833.
20 Sept.

any claim to a corresponding and equally valuable Grant elsewhere, even had you not seen reason to abandon the intention, which appears to have been entertained on the part of the Colonial Government during the administration of Your Predecessor, to divide the Garden of Hyde Park into building Allotments, and to appropriate them to the erection of Private Houses.

Denial of right
of civil officers
to land grant
and town
allotment.

As no Allotments of Land can, at present, be granted without infringing the Regulations established in 1831, it is perhaps unnecessary for me to refer to that part of Mr. Dumaresq's letter, in which he assumes that a Grant of Land and Building Allotment belonged, as a matter of course, to any Individual upon whom a Government office might have been conferred; but, as it is impossible to say, after the claim brought forward by Mr. Dumaresq, what pretensions may not be advanced by others upon similar grounds, it appears advisable that I should explain to you that such an interpretation of the indulgence is at variance with the intentions of His Majesty's Government, who (although they may in most cases, indeed I believe with scarcely an exception, have acquiesced in the principle of giving Grants of Land) never considered the Civil Officers to have any further claim to them than that which every other person arriving in the Colony had of receiving a Grant proportionate to the pecuniary means possessed by him of cultivating and improving it.

Under these circumstances, I most fully approve of the course pursued by you in reference to the case of Mr. Dumaresq, as well as in the case of the other parties alluded to in your Despatch.

I am, &c.,

E. G. STANLEY.

RIGHT HON. E. G. STANLEY TO GOVERNOR BOURKE.
(Despatch No. 44, per ship Fairlie; acknowledged by
Governor Bourke, 15th February, 1834.)

25 Sept.

Transmission
of new seal for
colony.

Sir, Downing Street, 25th September, 1833.

I have the honor to transmit to you, herewith, a new Seal* which has been prepared for the Colony of New South Wales, together with His Majesty's Warrant, authorizing and requiring you to affix the same to all Public Instruments connected with that Colony. And I am to desire that you return to me the old Seal for the purpose of being defaced in obedience to His Commands.

I am, &c.,

E. G. STANLEY.

[Enclosure.]

[A copy of the warrant is not available.]

GOVERNOR BOURKE TO RIGHT HON. E. G. STANLEY.
(Despatch No. 71, per ship Elizabeth; acknowledged by
right hon. E. G. Stanley, 11th May, 1834.)

1833.
27 Sept.

Sir, Government House, 27th September, 1833.

With reference to my despatch No. 45, dated 10th May last, addressed to Lord Viscount Goderich, I have the honor to inform you that Mr. Kentish, late an Assistant Surveyor in this Colony, whose misconduct rendered it necessary to remove him from employment, having intimated his desire to return to England, I issued to him the sum of two hundred pounds to enable him to accomplish his object. Mr. Kentish and Family have since proceeded on their voyage.

Advance for
passage money
to N. L. Kentish.

Although the case of Mr. Kentish is not precisely one of *reduction*, and may not therefore be considered as falling precisely under that contemplated in the Despatch of Lord Goderich No. 27 of the 29th September, 1831, yet, as this Person and his Family were sent from England and received no grant of Land or other inducement to remain here, I trust you will approve of my having enabled him to return to his Country.

I have, &c.,

RICHD. BOURKE.

RIGHT HON. E. G. STANLEY TO GOVERNOR BOURKE.
(Despatch No. 45, per ship Fairlie.)

Sir, Downing Street, 28th September, 1833.

28 Sept.

I have received and had under my consideration your Despatches of the dates and numbers noted in the margin.*

Despatches
acknowledged.

No. 31. I fully concur in the opinion, which you have expressed, that great advantage would result both to the Government and to the Holders of Land subject to Quit rent, if the latter were permitted to redeem their Rent at Ten years instead of Twenty years' purchase as fixed by the late Regulations; at the same time, those only should receive this indulgence who may avail themselves of it within a reasonable time. You will, accordingly, notify to the Settlers, possessing Land subject to Quit-rent, that they will be allowed to redeem their Rent at Ten years' purchase, if they are willing to do so within Twelve months from the date of the notification of this arrangement, and not otherwise.

Redemption of
quit rent at ten
years' purchase.

No. 41. The Instructions, which you have delivered to Mr. Busby for his guidance as British Resident in New Zealand, appear to me to be well calculated to secure the objects of his

Approval of
instructions
to J. Busby.

* *Marginal note.*—No. 31, 14th March; No. 41, 2d May; No. 42, 2d May; No. 51, 18th May, 1833.

1838.
28 Sept.

Arrival of
J. Busby in
New Zealand.

Mission. I am happy to learn from the Report, which Mr. Busby addressed to you on the 17th May last (a copy of which he has forwarded to this Office) that he has safely arrived in New Zealand, and that the Chiefs, whom he had with the assistance of the Missionaries assembled, have testified their satisfaction at his appointment.

Approval of
appointment of
letter-sorter.

No. 42. I approve of your having consented to augment the Establishment of the Post Office by the appointment of a Letter Sorter at the Salary of 4s. per diem; but, as you intimate the probability of a further increase being required, I must caution you against sanctioning such increase without sufficient proof of its necessity to satisfy the Lords Commissioners of the Treasury.

Refusal of
application
from J. McLean.

No. 51. The application of Mr. McLean, to receive the full Salary of the Colonial Botanist from the time that he undertook the duties of the situation till the nomination of the present Colonial Botanist, could not be granted consistently with the established Regulations upon this subject, and cannot therefore be complied with.

I am, &c.,

E. G. STANLEY.

GOVERNOR BOURKE TO RIGHT HON. E. G. STANLEY.

(Despatch No. 73, per ship Elizabeth; acknowledged by right hon. E. G. Stanley, 28th May, 1834.)

Sir, Government House, 28th September, 1833.

Claim by
H. and W.
Dumaresq for
compensation
for loss of tolls.

I have the honor to transmit a printed Copy of a Proceeding, which took place in the Legislative Council of this Colony during the late Session. It had its origin in the following circumstances:—Messrs. Henry and William Dumaresq, having certain claims on this Government as compensation for the loss of Tolls on Maitland Bridge, the collection of which I had declined to authorize immediately after my arrival in the Colony, were offered the sum of £222 15s. 8d. in satisfaction of their claim. This sum they refused to take as being too small; and, upon my declining to augment it, it was agreed that the sum should be placed on the Estimates for the year 1834, but that the Claimants would be at liberty to Petition Council for compensation to a larger amount. The Petition being received and the claim investigated, the Council came to a resolution on a division of 7 votes to 3 that the Governor should be requested to propose the sum of £500 as compensation instead of the smaller sum of £222 15s. 8d. This I consented to do, and the Vote was carried without Opposition, as it was not thought necessary to divide the Council a second time on the same subject. One of the Members however, who voted with the minority on the first

Compensation
voted by
council.

occasion, Mr. John Blaxland, entered a Protest against the Vote, A Copy of which Protest, I have the honor to transmit herewith.

1833.
28 Sept.

Having consented to the Appropriation of the Sum awarded by the Council, I have not the least desire that it should be disallowed; and, but for the Protest which has been entered and which I am required to transmit, I should not have thought it necessary to bring the subject before you at this time or in this form. The Resolution of Council directs the Sum of £500 to be paid out of the Vote of Credit for 1834, and it is my intention to pay it accordingly, unless I shall be instructed to the contrary within the year.

Reasons for
submission
of statement.

I am however bound to say that nothing appeared on the investigation to induce me to consider the sum I had proposed to be by any means too small; on the contrary, the examination shewed the Petitioners to have a worse case than I at first supposed.

Opinion of
R. Bourke re
compensation.

The particulars are to be found in the Petition, Evidence* and Protest. If you should peruse these, you will probably consider the first to be drawn up in a very flippant, I might say disrespectful style; but the Petitioners know the Majority of those whom they addressed, and the question it must be confessed was decided by their friends. The Minute at page 25 exhibits the view, which I took of the case, and, the letter of the Colonial Architect immediately before it at page 23, the grounds upon which the valuation of the Bridge was made. This officer was not much mistaken in his opinion of its durability, for, whilst the question of its value was discussing in Council, the Bridge fell.

Reference
to papers
transmitted.

I have, &c.,

RICHD. BOURKE.

[Enclosure No. 1.]

EXTRACT from the Votes and Proceedings of the Legislative Council on the 9th August, 1833.

MESSRS. DUMARESQ's claim to compensation for loss of tolls on Maitland Bridge further considered.

Motion made and question put that His Excellency the Governor be most respectfully requested to amend the Estimate, which proposed to give Lieutenant Colonel and Mr. William Dumaresq the sum of £222 15s. 8d. for their interest in the Bridge over Wallis' Creek, Maitland, to the sum of £500 in compensation for their claim in this case, and to lay the same before the Council for their adoption.

Compensation
proposed by
legislative
council.

Council divided: Ayes, 7; Noes, 3.

Motion made and question put,

That Mr. Jones and Mr. Campbell be authorised to wait upon His Excellency the Governor to communicate the above resolution. Passed without a division.

A true Extract:—E. DEAS THOMSON, Clk., Col.

* Note 51.

1833.
28 Sept.

EXTRACT from the Votes and Proceedings of the Legislative Council on the 15th August, 1833.

COUNCIL met pursuant to adjournment, His Excellency the Governor in the chair.

Consent given
by R. Bourke.

Messrs. Jones and Campbell reported they had waited upon and communicated to His Excellency the Governor the resolution of Council of the 9th instant, relating to the claim of Messrs. Dumaresq to compensation for loss of tolls on Maitland Bridge, and that His Excellency had been pleased to express his intention of acceding to the Opinion of Council, as expressed in the Resolution.

A true Extract :—E. DEAS THOMSON, Clk., Col.

Minute by
R. Bourke *re*
compensation
for H. and W.
Dumaresq.

EXTRACT from the Minute of His Excellency the Governor to the Legislative Council, explanatory of the several heads of expenditure and of ways and means, as estimated for the year 1834, and dated the 14th June, 1833.

THERE is a charge for £222 15s. 8d. proposed to be paid to Lieutenant Colonel and Mr. William Dumaresq, as the estimated value of a bridge over Wallis' creek, near Maitland, constructed some years back, and purchased by them from the builder, with an engagement of the late Government to Establish a toll to accrue to the benefit of the Builder or his assignees for seven years. The toll was never established, though it was for some time collected; but, having ceased to be demanded early in the last year, and as the place did not appear to this Government to be one at which it would be expedient to establish a toll, it was thought equitable to offer to Messrs. Dumaresq the value of the bridge as it then stood, appraised by the Colonial Architect at £222 15s. 8d., leaving also in their hands the amount of toll which had been for some time previously collected. The Messrs. Dumaresq have expressed their dissatisfaction with this arrangement, but it does not appear to the Government that any large sum can with propriety be allowed.

A true Extract :—E. DEAS THOMSON, Clk., Col.

[Enclosure No. 2.]

EXTRACT from the Votes and Proceedings of the Legislative Council, 22nd August, 1833.

RESOLVED, That a Sum not exceeding £500, be paid out of the Vote of Credit for the Year 1834 to Messrs. Henry and William Dumaresq, as compensation for loss of tolls on Maitland Bridge.

Protest by
J. Blaxland *re*
compensation
voted by
council.

PROTEST: I protest against the claim made by the Petitioners, William Dumaresq and Henry Dumaresq, for any additional compensation in respect of the bridge over Wallis's Creek at Maitland, on the following grounds:—

1. That in my opinion the bridge has been built partly at Government expense, *although that fact has not been acknowledged by the petitioners.*

2. That the agreement or contract has been broken by the Contractors, the Bridge not having been "a good substantial wooden bridge," as shews by the Surveyor's professional report, and by the fact of its having already fallen down.

3. That the Tolls received by the petitioners must have considerably overpaid the cost* of erecting and repairing the Bridge.

1833.
28 Sept.

4. That the grant of the five acres of land contiguous to or within the *flourishing Township of Maitland*, with authority to build thereon a house of entertainment, which for the first Year paid no License, is itself more than an adequate equivalent for the Bridge.

Protest by
J. Blaxland re
compensation
voted by
council.

5. That the agreement or contract for the erection of the bridge had been again broken by the contractors, it having been Stipulated or understood that the tolls at this Bridge† should not exceed that at Howe's Bridge, Windsor: whereas, in fact, the tolls levied were in no instances lower, and in most instances‡ *were upwards of treble that rate*. That, in consequence of this deviation from the agreement the petitioners, who had taken tolls at the foregoing rate for upwards of (4) four Years, must be considered as having had the benefit of the tolls for at least (12) twelve Years, agreeably to the originally stipulated rate.

6. That the exaction of the tolls was unauthorised, and was therefore in a high degree illegal, and rendered the parties concerned therein liable to be prosecuted accordingly. And I request that the grounds of this my dissent may be recorded on the Minutes of the Council, and that an extract copy of such minute may be transmitted, together with a copy of these my objections, to the Right Honorable the Secretary of State for the Colonies for the consideration of His Majesty's Government.

JOHN BLAXLAND.

A true Copy:—E. DEAS THOMSON, Clerk of the Council.

GOVERNOR BOURKE TO UNDER SECRETARY HAY.

(Despatch per ship Elizabeth.)

Sir, Government House, 28th September, 1833.

With reference to your letter of the 19th April last, directing certain Sums of Money advanced to Officers of this Government upon their departure from England had been yet repaid, I have the honor to transmit herewith a statement from the Auditor General by which it appears that the respective amounts have been already refunded. I have, &c.,

Transmission
of report by
W. Lithgow.

RICHD. BOURKE.

[Enclosure.]

MR. W. LITHGOW TO COLONIAL SECRETARY MACLEAY.

Sir, Audit Office, Sydney, 14th September, 1833.

In reply to your Letter of the 4th Instant, No. 304, requesting me to report whether the Sums advanced to the undernamed Officers of this Government in England, Viz.:

Refund of
advances to
officials in
England.

Mr. Justice Dowling, £375; Major Mitchell, Dy. Sur. General, £125; Mr. Thompson, Asst. Do., £50; Mr. Elliot, Do., £50; have been

* See Surveyor Hallen's estimate of a new bridge of the same description, viz., £222 15s. 8d., also his report generally, as well as other evidence before the Council.

† Mr. McLeod's proposal for erecting a Bridge over Wallis's Creek, Hunter's River.

‡ Evidence before the Council.

1833.
28 Sept.
Refund of
advances to
officials in
England.

repaid; I have the honor of acquainting you that the Advances were repaid into the Colonial Treasury at the following dates, Viz. :—

By Mr. Dowling, 2nd April, 1828, £125; 5th July, 1828, £125; 6th October, 1828, £125—£375.

By Major Mitchell, 11th April, 1828, £62 10s.; 15th October, 1828, £62 10s.—£125.

By Mr. Thompson, 8th April, 1828, £50; with 3 per Cent. Premium, £1 10s.—£51 10s.

By Mr. Elliott, 7 April, 1828, £50; with 3 per Cent. Premium, £1 10s.—£51 10s.

I have, &c.,

WM. LITHGOW, Aud. Gl.

GOVERNOR BOURKE TO RIGHT HON. E. G. STANLEY.
(Despatch No. 75, per ship Elizabeth; acknowledged by
right hon. E. G. Stanley, 12th May, 1834.)

29 Sept.

Sir, Government House, 29th September, 1833.

In my despatch 3rd November last, No. 114, I had the honor to state that I had reduced the Stipendiary Magistrates in some Districts of this Colony, but that I expected to find myself obliged to appoint in others. I have since been constrained to restore the Stipendiary Magistrate at Campbell Town at the pressing instance of the principal Inhabitants of the District and of the unpaid Magistrates themselves. I have named Mr. G. Kenyon Holden with a Salary of £200 a year. The preceding Magistrate, being a Military Officer and having Quarters, received £150. I have to request your sanction to this appointment.

Appointment
of stipendiary
magistrate at
Campbelltown.

Necessity
for further
appointments.

I take this opportunity of observing that I find I shall shortly be obliged to name a Stipendiary for Goulbourne Plains and probably for other places, where the increasing number of Convicts and the disinclination of the Colonists to give up much of their time to the discharge of Magisterial duty renders such appointments indispensable. I do not, however, expect that it will be necessary for some time to exceed the Scale authorized by Lord Goderich in his Lordship's despatch of the 25 January, 1831, No. 62; but a general augmentation in the several branches of the Police Establishments of the Colony will doubtless be anticipated by His Majesty's Government, if Convicts continue to be sent out in large numbers.

I have, &c.,

RICHD. BOURKE.

GOVERNOR BOURKE TO RIGHT HON. E. G. STANLEY.
(Despatch No. 76, per ship Elizabeth; acknowledged by
lord Glenelg, 30th November, 1835.)

30 Sept.

Sir, Government House, 30th September, 1833.

Order-in-
council for
dissolution
of church
corporation.

Having lately received the Order of the King in Council for dissolving the Church and School Corporation in New South Wales, unaccompanied by any intimation of the views of His

Majesty's Government as to the future maintenance and regulation of Churches and Schools within the Colony, I deem it my duty to submit for your consideration such observations upon these important subjects as my knowledge of the state of the Country enable me to offer, and to suggest such arrangement as will in my opinion meet with the favor and support of the great majority of the Colonists, and thereby promote with the best assurance of success the religious instruction and general education of this People.

1833.
30 Sept.

Problems *re*
churches and
schools.

To enable you, Sir, to ascertain more clearly the propriety of the measures I shall have the honor to propose, I would observe that the Inhabitants of this Colony are of many different religious persuasions, the followers of the Church of England being the most numerous; but there are also large bodies of Roman Catholics and Presbyterians of the Church of Scotland, besides Protestant Dissenters of many different denominations having separate Places of Worship. Of the Convicts who have arrived here for the last seven years, about one third are Irish and Catholic; and, if the Families of these Persons, arriving from Ireland in considerable numbers, are taken into account, it may be stated with some probability of accuracy that about one fifth of the whole population of the Colony is Catholic. The Members of the Church of Scotland form a smaller proportion, but are amongst the most respectable of the Inhabitants, and are to be found with few exceptions in the Class of Free Emigrants. For administering the offices of religion to these three principal denominations of Christians, there are of the Church of England, an Archdeacon, fifteen Chaplains and four Catechists; of the Church of Scotland, four paid Ministers; and of the Romish Church, there are a Vicar General and two Priests at present receiving Stipends from Government; but further sums have been voted by the Council for the support of four additional Roman Catholic Chaplains in the next year. The Clergy of the Church of England are supported chiefly by payments from the Treasury and to a small amount by the Rent and Sale of Lands formerly granted to the Church and School Corporation. The charge for the Church of England next year, including that for Minor Church Officers and contingencies of all sorts, is estimated at £11,542 10s. The whole charge on the Public Treasury for the Church of Scotland for the same period is £600 and for Roman Catholic Chaplains and Chapels £1,500. The Protestant Dissenters receive no support from Government beyond some small grants of Land made to some of them as Sites, upon which to erect their Places of Worship.

Religious
denominations
in colony.

Proportion
of Roman
Catholics.

Presbyterians.

Clergy
supported by
government.

1833.
30 Sept.

Churches
erected and
proposed.

With respect to places of Worship, it may be convenient to observe here that the Church of England possesses at this time in Sydney and within 40 Miles of it seven Stone or Brick Churches* of Moderate size but respectable appearance, besides two others of the same description in more remote parts of the Colony, and several less permanent Buildings in various Places. The expense of erecting these Houses I cannot immediately ascertain; but it has been considerable and has been wholly defrayed by Public Funds. The Church of Scotland possesses one Church of respectable exterior in Sydney, and two or three temporary Buildings in the Country Districts. The Scots Church in Sydney was built by subscription, aided by a loan from this Government amounting to £ ,† for which a Mortgage has been taken of the premises, but no part of the Money has yet been repaid. The Church of Scotland has received no other aid for Buildings that I can discover. The Roman Catholics possess one large and handsome Church in Sydney not yet completed. In aid of its construction, donations amounting in all to about £1,200 have been at different times granted by this government. The Sum of £400, included in that of £1,500 before mentioned, has been appropriated by the Council, to be paid in the next year in aid of a similar sum to be raised by private subscriptions, for erecting Roman Catholic Chapels at Maitland and Campbelltown. A Chapel was begun at the latter place as well as at Paramatta some years ago, but neither have been completed from want of funds.

Indulgences
for chaplains
of church of
England.

The Chaplains of the Church of England are provided with Glebes of 40 Acres each or with a Money allowance in lieu, and with Houses or lodging Money. No advantage of this kind, obtained at the Public expense, is possessed by the Clergy of the Established Church of Scotland or by the Roman Catholics, if I except a Grant of 40 Acres for the use of the Minister of the Scots Church at Bathurst.

Opinion
adverse to
preference in
expenditure
on church of
England.

A distribution of support from the Government of so unequal an amount as that, which I have just described, cannot be supposed to be generally acceptable to the Colonists, who provide the funds from which this distribution is made. Accordingly the magnitude of the sums annually granted for the support of the Church of England in New South Wales is very generally complained of, and a Petition to the Governor and Legislative Council has been lately prepared at a Public meeting and very numerously signed praying for a reduction of this Expenditure. If the complaint be well founded, as I confess I consider it to be,

* Note 52.

† Note 53.

the recent dissolution of the Church Corporation affords an opportunity for placing upon an equitable footing the support, which the principal Christian Churches in the Colony may for the present claim from the Public Purse. I would therefore earnestly recommend to His Majesty's Government to take the whole case into their early consideration, and to adopt such an arrangement as may be expected to give general satisfaction to the Colonists. I would observe that, in a New Country to which Persons of all religious persuasions are invited to resort, it will be impossible to establish a dominant and endowed Church without much hostility and great improbability of its becoming permanent. The inclination of these Colonists, which keeps pace with the Spirit of the Age, is decidedly adverse to such an Institution; and I fear the interests of Religion would be prejudiced by its Establishment. If on the contrary support were given as required to every one of the three grand Divisions of Christians indifferently, and the management of the temporalities of their Churches left to themselves, I conceive that the Public Treasury might in time be relieved of a considerable charge, and, what is of much greater importance, the people would become more attached to their respective Churches and be more willing to listen to and obey the voice of their several Pastors.

It may be expected that, in addressing you, Sir, on this occasion, I should submit some specific arrangement for your consideration. I can not without much diffidence proceed to discharge this duty; but, as I have reason to believe that the outline which follows is in unison with the sentiments of many of the most intelligent of the Colonists, I have the less hesitation in laying it before you.

I would propose that, wherever a moderate congregation can be collected throughout the Colony, and that a subscription shall have been entered into for Building a Place of Worship and Minister's dwelling amounting to Sum not less than £300, upon application an equal Sum shall be issued from the Colonial Treasury in aid of the undertaking, and that the Buildings when completed and the grounds, upon which they stand whether provided by the Subscribers or granted by the Crown, shall be vested in Trustees elected by the Congregation. These Trustees shall have power to dispose of the Seats or Pews (excepting one fourth, which shall be reserved as free Sittings), and, out of the Rents or by means of voluntary subscriptions, The Trustees shall provide for the maintenance of Church Officers, the repairs

1833.
30 Sept.

Proposal for equitable distribution of support.

System proposed for subsidy for erection of churches and parsonages.

1833.
30 Sept.

Stipends
proposed
for clergy.

of the Church, Minister's Dwelling, Church Yard, Burial Ground and Appurtenances, and the contingent expences connected with the celebration of Divine Worship. The Buildings thus erected will be at no after period a charge upon the Public Revenue. A Chaplain of the Creed of the Congregation shall then be appointed by the Crown in the manner now practised, and his Stipend shall be issued by the Governor at the following rate:— If, in the District where the Church or Chapel to which he shall be appointed is situated, there be a Resident Population of one hundred Adults who shall Subscribe a declaration, setting forth their desire to attend such place of Worship, the Chaplain shall receive from the Treasury one hundred pounds a year; if there be two hundred Adults, one hundred and fifty pounds; and if five hundred adults, then two hundred pounds, which is proposed as the maximum Salary to be paid by the Government to a Chaplain of whatever persuasion.

Advantages
of proposals.

In this way it is imagined that the erection of Places of Public Worship may be obtained wherever a competent congregation can be collected, whilst there will be secured to the officiating clergyman such a Moderate Stipend as is sufficient for his support, but will not render him independant of his own exertions or the respect of the congregation. These Chaplains should be empowered to perform the ceremonies of Marriage, Baptism and Burial in their several Churches for Moderate Fees, and should be secured in the receipt of their Stipends unless removed from their Chaplaincies for misconduct. The whole of this arrangement, with such further details as shall seem necessary, will require the authority of an Act of the Governor and Council to put it into operation.

Duties of
chaplains.

The foregoing System may be applied to the existing Churches of the Establishment by vesting them and the Ministers' Houses and Glebes in Trustees for the purposes before mentioned; but the present Incumbents should remain with the Salaries and advantages they now enjoy, so far as these emoluments have been secured to them by previous engagement with the Government.

Necessity for
act of council.

Extension of
system to
existing
churches.

Archdeacon
proposed as
suffragan to
archbishop of
Canterbury
or bishop of
London.

For the better discipline of the Chaplains of the Church of England, for obtaining the necessary celebration of the Rites of Ordination and Confirmation, and for maintaining the connexion of this Church with the Metropolitan, I would suggest that the Archdeacon of New South Wales be made a Suffragan to the Arch Bishop of Canterbury or Bishop of London. The Stipend of the present Archdeacon is more than sufficient for the proper discharge of this office, and that of His Successor

might be reduced very considerably. The inconvenience attending the dependance of this Church on the authority of a Bishop placed at the distance of Calcutta from Sydney is too obvious to require much proof; but the circumstance, referred to in a letter recently addressed to me by Archdeacon Broughton a Copy of which I have the honor to transmit, places this matter in a striking point of view.

1833.
30 Sept.

Objectious to jurisdiction of bishop of Calcutta.

The establishment in the Colony of a Presbytery of the Church of Scotland, which I had the honor to recommend in my despatch of the 8th July last, No. 56, will secure the proper discipline of that Church; and the recent appointment of a Vicar General, with whose discretion, character and morals I have the greatest reason to be satisfied, will I hope effect what is required in the Roman Catholic Church. I am inclined, however, to think that the Salary of £200 a year is too low for the office, and that it might be advantageously raised to £400 to enable the Vicar General to visit frequently the Chapels in the Interior.

Presbytery for church of Scotland.

Appointment of vicar-general.

Increased salary proposed for vicar-general.

In the foregoing outline, I have limited the support of the Government to the three principal Christian Congregations in the Colony. This limitation may be considered an objection to the Plan, as it may be urged that, in granting assistance systematically to more than one Church, a claim is given for assistance upon the same principle to every Congregation of Dissenters and of Jews. This however is an objection to the Theory and is not likely to interfere with the practical benefits of the Plan. If it should be thought proper at any future period to extend assistance to other Congregations whose Members may seem to require it, there will be nothing in the present arrangement to prevent it. Or, if it shall be deemed more advisable, the proposed system may be established by the local law as it affects the Church of England, only leaving it to the discretion of The Governor and Council to extend a similar provision to such other congregations as shall require it. At this early period of the Colony's existence, it is I think necessary that the Government should grant pecuniary assistance for the establishment of religious Institutions, and take upon itself the nomination of the Ministers; or it might happen that the Ordinances of Christianity would become altogether neglected or its tenets perverted by incompetent Teachers.

Claims of dissenters and Jews for support.

Proposed adjustment of claims.

I cannot conclude this subject without expressing a hope, amounting to some degree of confidence, that, in laying the foundations of the Christian Religion in this young and rising Colony by equal encouragement held out to its Professors in their several Churches, the people of these different persuasions

Prospects of religious tolerance.

1833.
30 Sept.

will be united together in one bond of peace, and taught to look up to the Government as their common protector and friend, and that thus there will be secured to the State good subjects and to Society good men.

Report *re*
schools.

Orphan schools.

I shall now beg leave to lay before you a brief account of the Schools, which have been lately under the Superintendence of the Church and School Corporation. The principal of these are the Male and Female Orphan Schools, at the former of which 133 Boys are now maintained and educated at an expense, estimated at the year 1834 at £1,300, and at the latter 174 Girls at an estimated expense of £1,500, exclusive of supplies obtained from the lands set apart for the use of these Schools. The Buildings of the Female School are handsome and commodious, and those for the Boys are sufficient for the purpose. In both of these Schools, the Children are brought up exclusively in the doctrines of the Church of England. As they are received at a very early age, and those who are not Orphans in the strict meaning of the term are for the most part deserted or neglected by their Parents, it is proper that they should be so brought up. There is in Paramatta also a considerable Boarding School, called the King's School, at the head of which is a Clergyman of the Church of England with a Salary of £100 a year only, but who has been promised the occupation of a House to be built at the Public expense to contain from 60 to 80 Boarders and Day Scholars. The House not being yet built, two are rented in the Village by Government at £80 per annum, in which the Master receives at present 54 Boarders and 15 Day Scholars, the former at the rate of £28 the latter at from £6 to £10 a year. This arrangement, which originated I believe with the late Archdeacon, is an expensive one, and the wealthier part of the community will be the greatest gainers by it. The three Schools thus described now are and will in all probability continue to be exclusively for the Church of England.

King's school
at Parramatta.

Means of
support for
schools.

They may be supported and the Orphan Schools extended by means of the Income, which will at no great distance of time be derived from the Lands granted under Seal to the Church and School Corporation, and which on its dissolution became by the terms of the Charter vested in the Crown, to be disposed of by His Majesty, His Heirs or Successors, in such manner as shall appear "most conducive to the maintenance and promotion of Religion and the Education of Youth in the said Colony." Under these terms, the Income of the Lands may be applied to the support of any of the Churches or Schools referred to in this despatch.

The primary Schools Established by the Corporation, which are 35 in number situated in various parts of the Colony, attended upon an average by 1,248 Children of both sexes, are charged in the Estimates for 1834 at £2,756. These are Superintended by the Chaplains, and in all of them the Catechism of the Church of England is taught; and, although Children of other persuasions may and do sometimes attend, these Schools are necessarily considered as belonging to the Church of England. Thus the charge for all the Schools of this description for the year 1834 is taken at £5,736, to which should be added a Vote of the Legislative Council of £2,300 for the site and Buildings for the King's School at Paramatta. Nothing has been granted to any primary School connected with the Church of Scotland; but a loan of £2,500 has lately been made by the Government and secured by Mortgage for aiding the erection of the Scots College. The sum of £800 has been voted for Roman Catholic Schools for the year 1834.

1833.
30 Sept.
Primary or
parish schools
of church of
England.

Votes and loans
for schools.

You may thus perceive, Sir, the great disproportion, which exists in the support given by the state to Schools formed for the use of different denominations of Christians in the Colony; a disproportion not based on the relative numbers of each, but guided it would seem by the same principles which have regulated the support afforded to the different Churches. It is a subject of very general complaint. I am inclined to think that Schools for the general education of the Colonial Youth, supported by the Government and regulated after the manner of the Irish Schools, which since the year 1831 receive aid from Public Funds, would be well suited to the circumstances of this Country. I have not by me the parliamentary papers to refer to, and cannot give those Schools their proper designation; but I allude to those, in which Christians of all Creeds are received, where approved Extracts from Scripture are read, but no religious instruction is given by the Master or Mistress, such being imparted on one day in the week by the Ministers of the different religions, attending at the School to instruct their respective Flocks. I am certain that the Colonists would be well pleased to find their funds liberally pledged to the support of Schools of this description. It would be necessary however that Government took the lead in their Institution, fixing the places from time to time where they should be established as population increased, erecting the School Houses, and appointing well qualified Masters and Mistresses to be brought from Europe if need required. The Salaries of such Persons should be liberal, not less than from £100 to £150 per annum including House Rent. Whatever weekly payments were obtained from the Parents of the Children,

Disproportion
in support of
denominational
schools.

Proposed
adoption of
system of
Irish schools.

Salaries
proposed for
schoolmasters.

1833.
30 Sept.

Necessity for
government
support of
education.

who attend these Schools, should be applied to the repair of the School House and purchase of School requisites under the care of a local Committee. In like manner, Infant Schools should be established in the Towns and other populous places. I may without fear of contradiction assert that in no part of the world is the general education of the People a more sacred and necessary duty of the Government than in New South Wales. The reasons are too obvious to require that I should state them. The proposed arrangement will like that for the Churches require a local law.

Criticism of
parish schools.

With respect to the 35 primary or parish Schools, as they are called, established by the Church and School Corporation, I would observe that they are of no great importance or value; and I propose that, in proportion as Schools for general Education were established in the manner I have described, the support of Government should be withdrawn from the Primary Schools, leaving the Buildings and Furniture to any of the Congregation of the Church of England that might choose to maintain the Schools at their own expense.

Opinions of
Rev. W. G.
Broughton
re religious
tolerance.

I have thus, Sir, endeavoured to lay before you a brief sketch of the present state of the principal Churches and Schools in the Colony, and the outline of an arrangement for their future extension and management. I have reason to believe that a System, such as I have described, is favorably regarded by the Colonists in general, though it is not improbable that it would be opposed by all the Clergy. The opinions of the Archdeacon of New South Wales I know are opposed to it. He has declared, in a pamphlet* published here in the last year, that a Protestant cannot subscribe to the erection of a Place of Worship for Roman Catholics without guilt. He has also expressed to me his opinion that, though Government might tolerate others, it should afford aid to one Church only, namely that which it believed to be the true Church. Knowing these to be the sentiments of the Archdeacon, I have merely informed him that I am about to address you, acquainting him with the substance of the arrangement I have proposed. In a separate despatch, I shall have the honor of transmitting a proposal laid before me by the Archdeacon for the future application and management of the property, which has by the dissolution of the Corporation become vested in the Crown, together with the substance of my reply.

Requests for
grants for
erection of
churches.

I hope to be honored with an early communication on the subject of this despatch. Applications have lately been made to me for aid towards the erection of two Places of Worship of the Established Church of Scotland, the one at Sydney, the other at

* Note 54.

Bathurst. At the former place, the amount of Private Subscription is £640, at the latter £400. I intend to propose to the Legislative Council, at its Session in the next year for the Appropriation of the Revenue, that equal Sums be granted in aid of these undertakings, being assured that in so doing I shall only anticipate the instructions of His Majesty's Government.

I have, &c.,

RICHD. BOURKE.

1833.
30 Sept.

Requests for grants for erection of churches.

[Enclosure.]

[A copy of this letter is not available.]

GOVERNOR BOURKE TO RIGHT HON. E. G. STANLEY.

(Despatch No. 77, per ship Elizabeth.)

Sir,

Government House, 1st October, 1833.

1 Oct.

Referring to my despatch of the 30th Ultimo, No. 76, I have the honor to transmit a Memorandum, which I have received from the Archdeacon of New South Wales regarding the management of the Estates, lately under the care of the Church and School Corporation, but now vested in the Crown. I have written a short minute upon each Paragraph, and lay the whole before you as having reference to the arrangements I have proposed for the future establishment and management of Churches and Schools in this Colony.

I have, &c.,

RICHD. BOURKE.

Proposals by Revd. W. G. Broughton re clergy and school estates.

[Enclosure.]

[A copy of this paper will be found in a volume in series VII.]

GOVERNOR BOURKE TO RIGHT HON. E. G. STANLEY.

(Despatch No. 78, per ship Elizabeth; acknowledged by right hon. T. Spring Rice, 16th November, 1834.)

Sir,

Government House, 2nd October, 1833.

2 Oct.

The defective state of the Law as regarded the Police of this encreasing Town, the obvious inconvenience occasioned by the nuisances to be met with in its Streets, the danger of insalubriety if some of these nuisances were suffered to continue, and the innumerable disorders and indecencies which prevail in all populous places, when unchecked by the operation of penalties, having for some time past engaged my serious attention, I brought into Council a Bill to remedy the Evil in Sydney. This Bill has passed into a law, of which I have the honor to transmit a Copy. To carry the law into full effect, I have found it

Passing of police act.

1833.
2 Oct.

necessary to make the following changes in the appointments of the Police Magistrates and Constabulary for the Town and Port of Sydney.

Leave of
absence pending
retirement for
F. N. Rossi.

Captain Rossi, who has been for eight years at the head of the Sydney Police, having suffered considerably in health and finding himself unequal to the discharge of the duties, which the New Act on its coming into operation on the 1st Instant will impose on the Magistrates, has obtained leave of absence for a year in order to enable him to make arrangements for his ultimate retirement from the service. Upon this subject, I shall have the honor to address you in another Despatch.

Appointment of
superintendent
of police ;

I have named Colonel Wilson, who arrived here at the close of last year with the Appointment of Barrack Master, to take Captn. Rossi's duty with half his Salary £300 and the allowance of £100 a year lately made to him in lieu of a House. I have named Colonel Wilson on this occasion in the hope that he may be permanently appointed to the situation of first Police Magistrate in Sydney under the New Act. This Act has been copied in some respects from the last London Police Act, 10 Geo. 4, Cap. 44, and it is proposed to organize the Constabulary something in the way of the London Police. For this duty, I have great reason to believe that Colonel Wilson is very well suited, and that his exertions in repressing vagrancy and crime and promoting cleanliness and order will be found advantageous to the Inhabitants of Sydney.

and of
E. A. Slade
as police
magistrate.

As Colonel Wilson must of necessity be chiefly employed out of doors in the arrangement and discipline of the constabulary, the duties of the Bench would have been more than the Second Police Magistrate Mr. Wyndeyer could possibly have performed. I have therefore appointed Mr. Earnest Augustus Slade, who holds the employment of Superintendent of Hyde Park Barracks, to be a third Police Magistrate, requiring him to employ certain hours in the day, during which he can be spared from Hyde Park, in assisting Mr. Windeyer at the Police Office, for which Extra duty he is to receive one hundred pounds per annum additional Salary. By this small augmentation of expense, I hope to obtain sufficient strength in the Judicial Department of the Police; but it may be right to observe that the duties are daily increasing with the rapidly increasing population of the Town, in which there is no municipal Magistracy, and where more than an Ordinary share of Crime is committed, in addition to the numerous petty delinquencies for which Convicts are obnoxious to summary trial and punishment by the Provisions of the

Increase in
duties of police
magistrates.

Special Code enacted to control them. I may therefore find it necessary before long to appoint, in conjunction with Mr. Windeyer, a Justice whose whole time will be devoted to the Police, and whose Salary must therefore be higher. In the mean time, I have to request your approbation of the arrangement I have adopted.

1833.
2 Oct.

With respect to the Constabulary, I have found it necessary to add to the number in consequence of the increased dimensions and population of Sydney. The demands of Captn. Rossi for an augmented Establishment, both out of doors and in the Office, have been frequent and loud during the period that has elapsed since my arrival in the Colony. I am satisfied that, to carry into effect the regulations of the present useful Law, an augmented force is required both of Clerks in the Office and Constables in the Streets. In proof of the necessity of an augmentation of the former, I beg leave to enclose the Copy of a Report made by the Assistant Commissary of Accounts, whom I directed to examine the State of the Office. With respect to the latter, the details, into which I have entered with Colonel Wilson, have shewn me that with the present number of Constables He would be unable to execute the law with the necessary vigour and effect. I have therefore found it necessary to authorize an augmentation.

Increase in
number of
police.

The whole additional expense of the Police for the Town and Port of Sydney, as authorized by me from the 1st Instant and proposed for your Sanction, amounts to £1,093 10s. per annum, as may be seen by the Comparative Statement which I have the honor to transmit. This expense will be defrayed by the Military Chest, into which a much larger Sum collected within the Colony has been paid for the year 1833 than for any that preceded. The amount received by the Collector of Internal Revenue for Licenses to Retail Spirits lately paid to the Chest has reached the large sum of £9,037 10s., being nearly one half of the Annual charge for Police throughout the whole Colony. As by much the greater part of the Income for Licenses indeed of the whole Colonial Revenue is raised in Sydney, it appears but equitable that a sufficient Sum should be devoted to maintain the Police of the Town. I hope therefore that the expense I have thus authorized will meet your approbation. I have, &c.,

Proposed
additional
expenditure.

Revenue from
spirit licenses.

RICHD. BOURKE.

[Enclosure No. 1.]

[*This was a copy of the act of council, 4 Wm. IV, No. 7.*]

[Enclosures Nos. 2 and 3.]

[*Copies of these papers are not available.*]

1833.
2 Oct.

GOVERNOR BOURKE TO RIGHT HON. E. G. STANLEY.
(Despatch No. 79, per ship Elizabeth.)

Sir, Government House, 2nd October, 1833.

At the desire of Mr. Campbell, a Member of the Legislative Council of this Colony, I have the honor to enclose a letter addressed to me by that Gentleman on the 11th Ultimo, containing his objections to the Jury Act which recently passed the Council. The ostensible reason for this unusual course of proceeding on the part of Mr. Campbell is alleged to be his anxiety that you should be apprized of the fact that the Jury Act had been carried in direct opposition to the recorded wishes of seven Members of the Legislative Council. I cannot but consider his anxiety upon this point to be at least unnecessary, as he could hardly suppose I should fail to inform His Majesty's Government of the circumstances under which so important a measure was passed; and, in point of fact, I had addressed a despatch to you on this subject before the letter of Mr. Campbell reached me. As Mr. Campbell however seems to attach much weight and importance to the names and numbers of these Members who opposed the Bill, I feel that I am called upon to make a few observations in reply to that argument, and to shew that I have not persevered in a measure opposed to the wishes and opinions of a Majority of the Inhabitants of the Colony.

Mr. Campbell appears to assume that the unofficial, or as he styles them the independent Members of the Legislative Council represent the opinions of the Majority of the respectable part of the Colonists; and, certainly if they are to be so considered, the majority of the Public is decidedly opposed to Trial by Jury in any Form whatever. But upon this point of fact I entirely differ with him. I do not consider the present Legislative Council as the representative of the Public opinion; but on the Contrary it is opposed to it. There is perhaps no safer way of judging of public opinion than by the Constitutional Petitions of the People. The last Petition to Parliament for Trial by Jury in the English form was signed by nearly four thousand free Inhabitants of the Colony, bearing a large proportion to the number it contains capable of exercising a political right. In looking over the names of the Petitioners, I find amongst them Persons of the largest Property and highest respectability in the Colony, who must be presumed as deeply interested in the morals of the rising generation and in the due administration of Justice, as Mr. Campbell or any other Member of the Council. Among the Petitioners are the names of two of the unofficial Members, Mr. Blaxland and Mr. Bell, and that of Mr. Robert Campbell, Junr., the nephew of the Member of Council. Mr. Campbell

Objections by
R. Campbell
to passing of
jury act.

Opinions of
unofficial
members of
council.

Public opinion
re extension of
jury system.

himself seems not to have been at all times so decidedly hostile to Trial by Jury. It appears in the Evidence* taken before a Select Committee of the House of Commons, whose Report was ordered to be published on the 10th July, 1812, at page 70, that Mr. Campbell not only bore testimony to the desire of the Colonists for Trial by Jury but to the practicability of instituting it and the expediency of admitting Emancipists as Jurors. Assuming the answers given by Mr. Campbell in 1812 to express his true opinion then, it is difficult to discover any reasonable cause for his opposing Trial by Jury at this period. The main objection urged by the opponents has been the disproportion in numbers between the Emancipists and Free Emigrants or Native Borne subjects; but every year has tended to diminish the disproportion by the encrease of the latter classes by birth and immigration.

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Former opinion of R. Campbell in favour of trial by jury.

With respect to the objections of Mr. Campbell, which he has numbered in detail, I feel that it would be out of place to enter into arguments to refute them. The same objections were urged in the House of Commons on discussing the New South Wales Bill† in 1824, again upon Mr. Huskisson's Bill† in 1828, and may be urged with equal force at any time as long as New South Wales shall continue to be a recipient for Transports. Parliament however seemed to affirm the maturity of the Colony for the Constitutional form of Trial by Jury by introducing it under certain modifications in Civil Cases in 1824, and by subsequently extending it in 1828. His Majesty's Government was further pleased in 1831 to authorize me to propose the extension to Criminal cases; and, on this measure being announced to the House of Commons by a Minister of the Crown in 1832, it was favorably received by the House. The opinion of Parliament then as to the maturity of the Colony for this free Institution appears to have been expressed with sufficient clearness, and upon all those several occasions the desire of the Inhabitants of the Colony for trial by Jury was never for a moment doubted; nor can I admit that any assertions of Mr. Campbell or of the six other Members, who concur with him in opinion, are to be taken as conclusive the other way. On the contrary I repeat that those Gentlemen do not speak the Sentiments of the great majority of the respectable Inhabitants of the Colony.

Opinions of British parliament re extension of jury system.

Members of council opposed to majority of colonists.

The objection to sitting in the same Jury Box with a Person, who had been a Convict, was at least as strong in Civil as it can be in Criminal Cases; and I have never heard of such an objection but once, when it was made by a Son of Mr. Campbell himself. The objection indeed has been frequently raised in Theory; but, as it is found to be disregarded in practise when association in gainful concerns bring the respective Parties into

Objections to emancipists on juries.

* Note 55.

† Note 56.

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2 Oct.

contact in Counting Houses or Banking Establishments, it may be expected it should not prevail in the Jury Box.

In reply to that part of Mr. Campbell's letter, in which he states himself to have been unapprized of the day when the third reading of the Bill would take place, I would merely beg leave to refer to my answer to that Gentleman. I will only add that there is not the slightest foundation for any charge of surprize. An occurrence did certainly take place in Council on the day alluded to, such as had never been witnessed there before, Namely a division upon the third reading of a Bill, which, having been fully discussed and amended in Committee, was (according to the form of this Council) ordered to be fairly transcribed and presented to the Governor by unanimous consent in order to its being laid before the Council to be read a third time and passed.

I have, &c.,

RICHD. BOURKE.

[Enclosure No. 1.]

MR. R. CAMPBELL TO GOVERNOR BOURKE.

Sir,

Sydney, 11 Sept., 1833.

I take the liberty of addressing your Excellency, in consequence of my having been informed that at the third reading of the Jury Bill on 28th Ult., the Votes for and against it were even and that therefore, if I had attended and voted, the Bill could not have been passed.

My absence, I beg to state, was owing partly to indisposition, and partly to my concluding that the third reading was for some reason to be postponed, from the circumstance that the printed Report of the Proceedings of the Legislative Council contained under the head of "Orders of the Day" no intimation that the Jury Bill would be finally disposed of on the 28th, altho' notice was given that the Australian Bank Bill,* a much less important one, would be read a third time that day. Otherwise I should certainly have made a point of attending, in order that I might support to the last the Independent Members of the Council in their opposition to a measure which, in its present shape, it is my humble opinion must operate most prejudicially to the Colony, as regards the Youth of our community, by discouraging the growth of those feelings to which the high moral character of the country parts of England is chiefly attributable, and as regards the Convicts by opposing another obstacle to the enforcement of a rigid system of penal Discipline, without which Transportation to New South Wales cannot be rendered efficient either as a punishment for or as a prevention of Crime.

Such being my views of the Tendency of the Bill in question, I cannot but reproach myself, as a Colonist, for having negligently absented myself when my vote would have prevented its being passed; and, as a Father, my regret on the occasion is augmented by the reflection that, had I taken my seat that day at the Council, my children would not have been exposed to the degradation of being brought in association, day after day, in the Jury Box, with the refuse of the Goals and Hulks of the Mother Country.

* Note 57.

Alleged
ignorance by
R. Campbell
of third reading
of jury act.

Division on
third reading.

Effect of vote
of R. Campbell.

Reasons for
absence from
council.

Opposition of
R. Campbell
to act.

Regret at
absence from
council.

It will not, therefore, be matter of surprise to your Excellency, that I am anxious that the Right Honorable the Secretary of State should be officially apprised of the Fact that the Bill so recently passed has been carried in direct opposition to the recorded wishes of Seven members of the Legislative Council, only *one* member indeed not holding office under the Government having voted for it. To this end allow me to request that your Excellency will do me the favor to transmit this letter to the Secretary for the Colonies, together with my reasons for opposing the Bill, which I have appended for the purpose of shewing that I am not actuated by factious or other improper motives.

I have, &c.,

ROB. CAMPBELL.

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2 Oct.

Members
opposed to act.

[Sub-enclosure.]

STATEMENT OF OBJECTIONS.

I OBJECT to the Jury Bill submitted to the Legislative Council on the 17 July for the following reasons:—

Objections by
R. Campbell
to jury act.

1st. Because the present mode of Trial in criminal cases, viz., by a Jury composed of Military or Naval Officers, is well adapted to the exigencies of a Colony in which the number of free persons qualified to serve on Juries is comparatively small, and the number of Criminals to be tried, owing to the character of our population, is amazingly great.

2nd. Because I think that, of the Two Institutions the grand Jury and the Petit Jury, the complete establishment of the former in the Colony ought to precede that of the latter, more especially as it appears by "the opinion of the three Judges," furnished for the Information of the Council, that a great number of men, who have been guilty of the vilest crimes and suffered the most degrading punishments, persons whom the force of public opinion alone would exclude from the Jury Box at home, whatever might be the law on the subject, will be here qualified to serve, and will serve on our Petit Juries.

3rd. Because the admission of Convicts into the Jury Box immediately on their becoming free must tend to lower the dignity of our Courts, and to excite general distrust with regard to the administration of Justice; for we shall frequently witness the extraordinary Spectacle of men sitting as Jurors on the trial of those, with whom they have been imprisoned in the same gaol and transported in the same Ship to our Shores.

4th. Because it is notorious that the acquisition of wealth, and even of a conditional pardon in the Colony, is by no means invariably a safe criterion by which we may judge of the reformation of a Convict.

5th. Because many of the Colonial Youth, who will be possessed of considerable property, not having, as would generally be the case with persons of the same class in England, the example of honest and industrious parents to stimulate them to a virtuous and respectable course of life, it is very desirable that they should be taught, by the marked exclusion of Convicts from the Jury Box, to value a character for honesty and integrity as the great qualification, on which their own right to sit there, must depend.

ROB. CAMPBELL.

1833.
2 Oct.

[Enclosure No. 2.]

PRIVATE SECRETARY BOURKE TO MR. R. CAMPBELL.

Sir, Government House, Para'a, 23rd September, 1833.

Opinions to
be transmitted
to England.

I am commanded by The Governor to acknowledge the receipt of your Letter of the 11 inst., and to inform you that, as you express a wish to have your opinions upon the Jury Act lately passed by The Governor and Council laid before the Secty. of State for the Colonies, H.E. will transmit a copy of your Letter to that Minister.

Usual course
adopted in
passing of jury
act.

I am further to acquaint you that H.E. cannot see any sufficient reason for your having concluded that the 3d reading of the Jury Bill was to be postponed, as, upon referring to the Clerk of the Council and the printed Rules and Orders, it will be found that the usual and regular course of proceeding was pursued with respect to that Bill, as with respect to three other Bills passed on the same day under circumstances precisely similar.

I have, &c.,
R. BOURKE.

GOVERNOR BOURKE TO RIGHT HON. E. G. STANLEY.

(Despatch No. 81, per ship Elizabeth; acknowledged by right hon. E. G. Stanley, 13th May, 1834.)

4 Oct.

Sir, Government House, 4th October, 1833.

Request by
Rev. W. G.
Broughton
for services
of clerk.

In consequence of the dissolution of the Church and School Corporation, The Archdeacon of New South Wales will shortly lose the advantage and convenience of an Office with a Messenger attached and a Clerk to enter his letters. He has therefore applied to me to continue under his direction the Junior Clerk of the late Corporation with a Salary of £150 a year, whose duty it will be to prepare the Annual Alphabetical Indices of Baptisms, Marriages and Burials agreeably to the Act of Council 6 Geo. 4, No. 21, and to carry on the Archdeacon's Correspondence with this Government and the Clergy.

The former being a necessary duty required by law to be executed under the Archdeacon's Superintendence, I would recommend that the Clerk be allowed, and I have authorized the Archdeacon to avail himself of the Services of the Person he applies for until the pleasure of His Majesty's Government be known. He has also applied for the Services of the Messenger to be paid at the rate of 2s. 6d. a day; but, as it is not obvious to me that this appointment will be necessary after the Affairs of the late Corporation are wound up, I propose in this instance to decline complying with the Archdeacon's request, unless I shall receive your Commands to the contrary.

I have, &c.,
RICHD. BOURKE.

GOVERNOR BOURKE TO RIGHT HON. E. G. STANLEY.

1833.
5 Oct.

(Despatch No. 82, per ship Elizabeth; acknowledged by
right hon. T. Spring Rice, 16th November, 1834.)

Sir, Government House, 5th October, 1833.

Since I had the honor of addressing you on the subject of the Police Establishment for Sydney in my Despatch of the 2nd October, 1833, No. 78, I received from Mr. Windeyer, the 2nd Police Magistrate, the Memorial which I now transmit.

Mr. Windeyer lays claim to the appointment of first Police Magistrate in Sydney; but I may say, without disparagement to his fitness for the general duties of a Justice of the Peace, that I do not think he would succeed in the organization or command of a Police force, for which his previous habits have in no respect qualified him, and which duties it is proposed to assign to the first Magistrate. I am of opinion that it will be more for the good of the Service to leave Mr. Windeyer on the Bench.

With respect to his Application for an encreased Salary, I have no doubt that his duties have augmented and may be still further enlarged with the Population of the Town. I would not therefore object to raise his Salary by fifty pounds a year, making in all four hundred; but, as I do not wish to propose any further expense to the Treasury, I would suggest that fifty pounds be taken from the Salary of the first Magistrate, which will thus stand at £650. The difference between the two Salaries may be fairly claimed by the first Magistrate, who must necessarily keep Horses, for which no allowance is made to him, and neither of the Magistrates will in my opinion be overpaid.

I have, &c.,

RICHD. BOURKE.

[Enclosure.]

THE Humble Memorial of Charles Windeyer, 2nd Police Magistrate of Sydney, New South Wales.

Memorial of
C. Windeyer.

To the Right Honorable Edward Geoffrey Stanley, His Majesty's Principal Secretary of State for the Colonies, etc., etc., etc.
Sheweth

That Your Memorialist was, in the Month of August, 1831, appointed to the situation of Assistant Police Magistrate of Sydney with a salary of £350 per annum.

That your Memorialist has fulfilled the duties of that office, as he presumes to hope, with credit to himself and to the satisfaction of His Excellency the Governor.

That, Captain Rossi, the Principal Superintendant of Police, having obtained the permission of His Excellency the Governor to be absent from the Police Twelve Months on account of his

1833.

5 Oct.

Memorial of
C. Windeyer.

impaired Health which will probably prevent that Gentleman from resuming his situation, Your Memorialist, in the event of Captain Rossi's retirement, ventures to express a hope that, from his previous services and experience in the Police Department, he may be thought worthy to succeed him.

Your Memorialist begs further to represent That, in the meantime, the arrangements consequent on Captain Rossi's absence have thrown on your Memorialist a great increase of labor and responsibility.

That the duties of Your Memorialist comprise not only those which are in England ordinarily fulfilled by Justices of the Peace and Police Magistrates; but your Memorialist is also called upon to act singly, and also in Petty Sessions to decide in a summary manner on Offences committed by Prisoners of the Crown; and also in the Trial of Informations against free persons, for offences against the various penal Statutes and Ordinances in force within the Colony. These duties, already exceedingly heavy, are, from the increasing commerce and Population of the Colony, becoming every day more onerous.

Your Memorialist therefore humbly submits that, for the due performance of such duties, the Salary of £350, now enjoyed by Your Memorialist, will be considered altogether inadequate; and he prays therefore for such increase thereto, as may to His Majesty's Government seem just and reasonable; and that the same may be allowed to take effect from the 1st October Instant.

CHAS. WINDEYER, 2nd Police Magistrate.

Sydney, New South Wales, 5th October, 1833.

RIGHT HON. E. G. STANLEY TO GOVERNOR BOURKE.

(Despatch No. 46, per ship Fairlie.)

14 Oct.

Sir,

Downing Street, 14th October, 1833.

Convicts
ordered for
special
punishment.

With reference to my Despatch No. 33 of 21st August last, relative to the Classification of Convicts, who may in future be sent to the Australian Settlements, I transmit to you herewith a List of Twenty eight Convicts, embarked in the Ship "Fairlie" for New South Wales, whom, from the nature of their offences and characters, it is deemed advisable to place in the second and third classes, vizt., those kept to labour in chains, and those sent to the most Penal Settlements; and I am to desire that you will take the necessary steps for disposing of these Convicts, on their arrival in the Colony, in the manner and under the restrictions proposed with respect to the Prisoners of the Classes before mentioned.

I have, &c.,

E. G. STANLEY.

RIGHT HON. E. G. STANLEY TO GOVERNOR BOURKE.
(Despatch No. 47, per ship Numa.)

1833.
20 Oct.

Sir, Downing Street, 20th Oct., 1833.

I have received and have laid before the King three Acts passed by the Governor and Council of New South Wales in the Months of August, September, and October, 1832, the operation of which is suspended for the signification of His Majesty's pleasure. A List of the Titles* of these Acts is subjoined.

Allowance of
acts of council.

I have the honour to acquaint you that His Majesty has been graciously pleased to approve and allow these Acts.

I am, &c.,

E. G. STANLEY.

RIGHT HON. E. G. STANLEY TO GOVERNOR BOURKE.
(Despatch No. 48, per ship Numa.)

Sir, Downing Street, 22d October, 1833.

22 Oct.

I have received and laid before the King your despatch No. 33 of the 18th of March last, with its Enclosures containing the Proceedings in the case of Samuel Ryan, William Steel, Thomas Macgrath and Patrick Daly, convicted before the Supreme Court of New South Wales in Decr. last of the Murder of Mr. John McIntyre; and I have now the honor of transmitting to you herewith the accompanying Pardons, which His Majesty has been graciously pleased to grant to the said Prisoners upon the conditions, as therein set forth; and I have to desire that you will allow the said Prisoners to receive the full benefit of these Pardons.

Transmission
of pardons.

With respect to the Prisoner Patrick Daly, I consider that it would be irregular to hold out to him a promise of free Pardon (as intimated in your despatch) as an inducement to him to give such information as might be the means of bringing to Justice any of the Principals or Accessaries in the Murder; but, if he should hereafter make any satisfactory statement, you will then be at liberty to recommend him to the mercy of the Crown.

Instructions
re P. Daly.

I am, &c.,

E. G. STANLEY.

GOVERNOR BOURKE TO RIGHT HON. E. G. STANLEY.
(Despatch No. 83, per ship Elizabeth; acknowledged by
right hon. T. Spring Rice, 16th November, 1834.)

Sir, Government House, 23rd October, 1833.

23 Oct.

In my despatch No. 78 of the 2nd October Instant, I had the honor to inform you that Captain Rossi, who has been for eight years at the head of the Sydney Police, had represented to me that, from his having suffered considerably in health from

Leave of
absence for
F. N. Rossi
pending
retirement.

* Note 58.

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23 Oct.

Leave of
absence for
F. N. Rossi
pending
retirement.

the constant labor of his Office, he found himself unequal for the present at least to the discharge of the increased duties required by the Sydney Police Act lately passed, and that I had at his request given him a year's leave of absence with half Salary with a view to his making arrangements for his ultimate retirement from the Service.

Request by
F. N. Rossi
for permission
to sell his
commission.

I have now the honor to transmit a Memorial from Captain Rossi, detailing his case and stating that his desire, on retirement from employment in the Police, is to obtain leave to sell his Company of Foot, a permission which was actually accorded to him by His Royal Highness the late Duke of York, but afterwards withdrawn in the manner Captain Rossi has related in his Memorial; and, upon such sale being effected, he hopes to obtain the established remission in the purchase of Land in this Colony.

Recommend-
ation of favour
of granting
request.

If there should be no insuperable objection raised to the proposed arrangement by the Military Department, I would strongly urge its adoption by the Colonial, as offering a very easy way of satisfying the strong claim of an officer, who has labored unceasingly under great disadvantages and has certainly impaired his health in the service of this Colony. Captain Rossi has addressed the Secretary at War and Commander in Chief, and trusts the success of his application will be ensured by the powerful recommendation of the Secretary of State for the Colonies. A refusal would I fear render it very difficult to bring to a favorable issue the arrangements I have proposed for the improvement of the Sydney Police.

I have, &c.,

RICHD. BOURKE.

[Enclosure.]

Memorial of
F. N. Rossi.

MEMORIAL of Francis Nicholas Rossi, Captain Half Pay late 3rd Ceylon Regiment, and Superintendent of Police in New South Wales.

To The Right Honble. Edward Geoffrey Smith Stanley, His Majesty's Principal Secretary of State for the Colonies, etca., etca., etca.

Humbly Sheweth,

Military
service.

That Memorialist had the honor of entering into His Majesty's Service in the Month of July, 1795, and was placed, at his own request, upon Half Pay in December, 1817.

Appointment as
superintendent
of police.

That Memorialist has held several Civil Situations in His Majesty's Service since the Year 1811, and that Earl Bathurst, in consideration thereof, was pleased to appoint him in August, 1824, to the Situation of Superintendent of Police at New South

Wales on a Salary of £600 per Annum, by which Memorialist was deprived of his Half Pay as Captain of Foot, amounting to £125 per Annum.

1833.
23 Oct.

That Memorialist, having experienced the inadequacy of his Salary, was, in consequence of the expectations and promises held out to Him on his Departure from England, induced, in November, 1825, to petition Earl Bathurst for an Increase of Salary; and, in reply, Your Memorialist received, on the 5th January, 1827, a communication from Governor Darling enclosing Copy of Earl Bathurst's Despatch* wherein His Lordship is pleased to express his satisfaction of the Zeal and Activity of Memorialist; but could not sanction any Increase of Salary, after the short period of Memorialist's Service, which scarcely exceeded a Twelve Month.

Previous applications for increase of salary.

That Memorialist, on the 6th October, 1829, addressed to The Right Honble. Sir George Murray, then Secretary of State, a Petition, setting forth Memorialist's claims and praying for such an Increase of Salary, as Memorialist's Services in Military and Civil Capacities might be thought to merit.

That Memorialist received a Letter from The Colonial Secretary of New South Wales, dated 5th November, 1830, by which it will be perceived The Secretary of State regretted* that circumstances did not permit his compliance with Memorialist's prayer; remarking that no time could have been more unfavorable for renewing the application, and that Memorialist's prayer would not have failed to have received The Secretary of State's most favorable consideration, had not circumstances compelled him to decline any application of this nature.

That Memorialist having, on the 15th November, 1825, humbly addressed His Royal Highness for permission to sell his Company, received, on the 1st January, 1827, a Letter from Sir Herbert Taylor, conveying His Royal Highness The late Commander in Chief's gracious permission for the sale thereof; and informing Memorialist that a candidate would be selected for the purchase of the Company, and that Memorialist would receive from Messrs. Greenwood, Cox and Co. through his Agents, the sum of £1,800.

Permission for sale of commission.

That Memorialist, on the 24th February, 1827, received a Letter from Sir Herbert Taylor, annexing Copy of a Letter from Mr. Merry of the War Office, stating that "The Secretary at War had postponed the notification of Memorialist's retirement from the Military Service, not being in the receipt of Half Pay."

Delay in announcing retirement.

That Memorialist in consequence addressed, on the 28th February, 1827, a detailed Letter to Sir Herbert Taylor, expressing

* Note 59.

1833.
23 Oct.

his concern and surprise at The Secretary at War's view of his Case, and praying the reconsideration of Memorialist's Petition by His Royal Highness The Commander in Chief.

Refusals to
reconsider
decision.

That, unfortunately for Memorialist, this Appeal arrived in England, after the lamented Death of his late Royal Highness The Duke of York; and, as there was not, at that period any Commander in Chief, The Letter to Sir Herbert Taylor was submitted to and decided upon by The Right Honble. Secretary at War, as would appear by a Letter, addressed to Memorialist by his Agent in London on the 18th August, 1827; and thus Memorialist was informed that "Lord Palmerston could not see sufficient reason to alter the decision already given by him on this point."

That Memorialist, having, in consequence of Lord Palmerston's decision, suffered considerable pecuniary Losses and embarrassment, submitted the hardship of his Case in a Memorial addressed to His Grace The Duke of Wellington, the then Commander in Chief, praying for His Grace's powerful interference in Memorialist's behalf.

That Memorialist received, on the 30th April, 1829, by order of Lieut. General Darling, copy of a Letter from Mr. Sulivan, addressed to Major General Lord Fitzroy Somerset, stating that, "altho' Sir Henry Hardinge was ready to admit the apparent hardship of Memorialist's Case, etc., he felt himself compelled to adhere to the former decision."

Consequences
of decision.

That Memorialist has thus been deprived of the reward of Twenty two Years' Military Services on the plea that his Half Pay was in abeyance during the time he held a Civil Situation, with a Salary of £600 per annum; and That Memorialist, on the other hand, has been refused any augmentation of Salary, held out and promised to him in England, not in consequence of any demerit on his part, but because the time for renewing the application could not be more unfavourable; thus placing Memorialist in a much worse position than he would have been, had he retired altogether from the Service in December, 1817.

Desire to resign
military and
civil service.

That Memorialist, having served in different Climates upwards of Thirty eight Years in Military and Civil Capacities, some of which were of a very arduous and laborious nature, more particularly that which he has filled during the last Eight Years, and being now in the 57th year of his age, feels naturally desirous to pass a few Years in retirement and repose, and to be permitted to resign both the Military and Civil Service.

That, with this view, Memorialist has submitted to His Excellency Governor Bourke, in the most unreserved and candid

manner, the whole of the Documents and Papers connected therewith; and His Excellency, feeling disposed to enable Memorialist to effect his object, has been so kind as to grant him Twelve Months' leave of Absence from his Duties as principal Superintendent of Police, with the Half Salary of his Situation, £300 per annum, thereby entitling Memorialist to draw his Half Pay.

That the main objection hitherto made by the successive Secretaries at War being thus fully removed, Memorialist has again Petitioned The General Commanding His Majesty's Forces and The Secretary at War, praying for the fulfilment of a permission which had been solemnly guaranteed to him by His Royal Highness The late Duke of York; and, in the event of Memorialist being permitted to retire from the Military Service, and to receive the full Price of his Company £1,800, Memorialist will lay at the feet of His Majesty his resignation of the Situation of Principal Superintendent of Police of New South Wales; and has most respectfully and earnestly to entreat that You will, Right Honorable Sir, in consideration of Memorialist's Attachment and sacrifices to the cause of Great Britain and of his long and faithful Services, be pleased to allow him, agreeably to His Majesty's Regulations,* the remission of Purchase Money on Land usually granted to Officers of Memorialist's Rank and Services, on their retirement, and Settling in this Country.

And Memorialist as in Duty bound shall ever pray.

F. Rossi,

Captain, H.P. 3rd Ceylon Regt., Princ. Superintendent of Police, New South Wales.

Sydney, New South Wales, 15th October, 1833.

[Sub-enclosure.]

COLONIAL SECRETARY MACLEAY TO MR. F. N. ROSSI.

Sir, Colonial Secretary's Office, 5th November, 1830.

I am directed by His Excellency the Governor to inform you that the Secretary of State has expressed his regret that circumstances do not permit of his complying with the prayer of your Memorial for an increase of Salary. He remarks that no time could have been more unfavorable than that which you have chosen for renewing your application upon this subject. The recommendations, which you have produced from two officers in the administration of the Government under whom you have successfully served in support of the prayer of your Memorial, would not have failed to receive the Secretary of State's most favorable consideration, had not circumstances compelled him to decline sanctioning any applications of this nature.

I have, &c.,

ALEX. MCLEAY.

1833.
23 Oct.

Leave of absence granted by R. Bourke.

Request for leave to retire and for concessions as military settler.

Refusal to grant increase of salary.

1833.
24 Oct.

GOVERNOR BOURKE TO RIGHT HON. E. G. STANLEY.
(Despatch No. 84, per ship Elizabeth; acknowledged by
right hon. E. G. Stanley, 14th May, 1834.)

Sir, Government House, 24th October, 1833.

Request for
building
allotment by
mechanics'
institute.

I have the honor to bring before your notice an application made to me by the Committee of the Sydney Mechanics Institute* for the grant without purchase of part of the Land, formerly occupied as a Lumber yard fronting Georges Street, as a site for the erection of a Building for that Institution.

Recommendation in favour of request.

Not feeling myself authorized to accede to their wishes without the previous sanction of His Majesty's Government, notwithstanding the fact of the grant being devoted to a public purpose, I have remained satisfied for the present with shewing my desire to promote the objects of the applicants by allowing them the temporary use of some rooms in a Public Building, lately occupied as the residence of the Principal Superintendent of Police. I have at the same time engaged to submit their application to His Majesty's Government, and I can strongly and conscientiously recommend it to the most favorable consideration. The Sydney Mechanics Institute has been lately established on the model of those in the Mother Country. It appears to have been already somewhat successful in promoting a taste for mental cultivation among persons in the middle ranks, thereby greatly tending to check those coarser pursuits unhappily too common in this Colony; and there appears to me no reason to fear that it will ever be perverted from its legitimate object to any of a political nature.

Policy proposed by committee of institute.

Allotments granted to library.

Although the Land sought for is of considerable value, this must be the case with any other site, which is equally central; and no other can be so well adapted for the purposes of the Institution. The Committee propose leasing the Land to some person, who will undertake to build thereon and appropriate a sufficient part of the Building to the purposes of the Institution free of expense. The Secretary of State for the Colonies lately established a precedent for an arrangement of this kind by granting to the Committee of the Australian Library two Allotments in Rush Cutters Bay† near Sydney, with an express view to their being sold and a Library being erected out of the proceeds on an allotment in Sydney, promised as a grant to the Committee by my Predecessor, previously to the promulgation of the order for the Sale of Crown Lands. I cannot help adding that the present applicants are much more in need of assistance than the Subscribers to the Library and are at least equally deserving of it.

Value of land.

The Land applied for would probably fetch at a Sale by Public competition about £600.

I have, &c.,

RICHD. BOURKE.

* Note 61.

† Note 62.

GOVERNOR BOURKE TO RIGHT HON. E. G. STANLEY.

1833.
25 Oct.(Despatch No. 85. per ship Elizabeth; acknowledged by
right hon. E. G. Stanley, 15th May, 1834.)

Sir, Government House, 25th October, 1833.

At the request of Sir Edward Parry, the Commissioner for
managing the Affairs of the Australian Agricultural Company
in this Colony, I have the honor to forward to you the enclosed
Letter from him occasioned by my refusal to allow the Sum of
5s. per ton for Coal, delivered by the Company to the use of this
Government, and for which 6s. had been paid before the arrival
of the despatch* of Lord Goderich authorising me to consent to
the higher sum being fixed as the price between the Government
and the Company.

Correspondence
with
Sir E. Parry *re*
price of coal.

Copies of all the correspondence on the subject will accom-
pany this despatch; but it may be convenient for me to present
you with an outline of the case in the light in which it appears
to myself.

The original agreement between the Government and the Com-
pany was that all Coal required for the use of Government, not
exceeding one fourth of the annual produce of the mines, should
be supplied at the pit's mouth at prime cost.

Agreement *re*
price of coal for
government.

Some difficulty being found in adjusting the amount to be con-
sidered as prime cost, Sir Edward Parry proposed† that the Gov-
ernment should pay 6s. provisionally. This was certainly not
proposed in such a way as to form any admission by the Com-
pany that it was an adequate payment; but, in acceding to it,
I was myself influenced by an opinion that it was a fair and
reasonable price being 25 per cent. lower than 8s., the price
charged to the Public at the same time. This difference appeared
to me consistent with the spirit of the original agreement, accord-
ing to which it was clearly contemplated that the Government
should be supplied at a price lower than the Public. Under this
impression, I directed that Sum to be paid; and, although Sir
Edward Parry may have retained an impression that more would
appear to be justly due on fuller investigation, the local Govern-
ment could not be considered as authorising such a view of the
case by the mere act of paying the price proposed by Sir Edward
Parry.

Price agreed
for coal by
R. Bourke.

The accompanying papers will shew that, in consequence of a
correspondence between the Governors of the Company in Lon-
don and Lord Goderich, the latter by his despatch No. 89 of
the 26th April, 1832, authorised me to assent to 8s. per Ton as the

Price arranged
in England.

* Note 63.

† Note 64.

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price between the Government and the Company, *provided I saw no objection to the reasonableness of that account.*

Objections to
make price
retrospective.

Under this authority, I assented to this new arrangement, considering of course that it was perspective only and that the consent of Lord Goderich applied only to future payments. My objections to extend the allowance of 8s. to the Coals, which have been already paid for at 6s., are as follows:—1. That to open up an account, which has been adjusted and paid, is contrary to the invariable practise of Government; 2nd. That I do not consider I was required to do so by the despatch alluded to; and 3 That, had I so interpreted that Despatch, I should not, under the discretion which it left me, have assented without qualification to the payment it proposes. When I agreed to allow 8s., the Coals were selling to the Public at 10s. 6d., when 6s. were paid they were selling at 8s. Both prices have therefore been paid by me on the same principle of claiming a reduction to the Government from the price charged to the Public, and which I should abandon, if I assented to a payment of 8s. for Coals supplied to the Government at a time when the Public paid no more.

I have, &c.,
RICHD. BOURKE.

[Enclosure No. 1.]

[*A copy of Sir Edward Parry's letter, dated 12th September, 1833, is not available.*]

[Enclosure No. 2.]

SIR EDWARD PARRY TO COLONIAL SECRETARY MACLEAY.

Sir,

Port Stephens, 7th June, 1833.

I do myself the honor to acquaint you, for the information of His Excellency the Governor, that I have received from the Directors of the Australian Agricultural Company a Communication on the Subject of the price to be paid for Coals furnished by the Company to His Majesty's Local Government, enclosing a Copy of a Letter addressed to the Governor of the Company by Mr. Hay, dated the 12th of April, 1832.

Price for coal
authorised in
England.

As it appears by this latter document, of which I have now the honor to transmit to you a Copy, that His Majesty's Home Government has referred to His Excellency the proposal made by the Directors of the Company that the Government should pay, as a fixed price, eight shillings per ton for the whole quantity of Coals supplied to them, I beg leave respectfully to request that this proposal be acceded to by His Excellency on the part of His Majesty's Government.

In making this request, I am prepared to shew that His Majesty's Government will, under the proposed arrangement, be Supplied with Coals on terms highly advantageous to the Public, while the

confusions arising from the payment of two distinct prices under the present System (according to the quantity furnished) will be altogether avoided.

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I beg leave to add that finding it impossible to go on Supplying the Public at the losing Price of eight-shillings per Ton, I have been under the necessity of raising it to nine Shillings; And, unless the demand Should increase very considerably, I shall be obliged to return to the price Charged by His Majesty's Government up to June, 1831, or three Months before the Working of the Mines was transferred to the Company.

Increase in
price of coal
sold to public.

I have, &c.,
E. W. PARRY,

Commissioner for Managing the Affairs of the Australian Agricultural Company in New South Wales.

[Sub-enclosure.]

UNDER SECRETARY HAY TO MR. J. SMITH.

Sir,

Downing Street, 12th April, 1832.

I am directed by Viscount Goderich to acknowledge the receipt of your letter of the 6th Inst., in which, with reference to the Original Arrangement by which the Australian Company undertook to supply the Government of New South Wales with Coal from their Mines at Newcastle, you Submit that this article Should be Charged at the fixed rate of Eight Shillings per Ton at the Pit's mouth, instead of the price being annually regulated by the process at first proposed, Viz., that the Principal Manager of the Mines Should make a periodical Statement upon Oath, founded upon the Company's Books of Account, as made up to the 30th April of each Year.

Request for
fixed price
for coal.

Lord Goderich desires me to acquaint You, in reply, that he is desirous of meeting the wishes of the Company by Simplifying, as much as possible, the transactions in question between the Colonial Government and the Company's Agent in the Colony, and has no doubt that the proposition which you have brought forward in behalf of the Company Originates in no other Views than those which are professed; at the same time Lord Goderich feels that he should be incurring a Most heavy responsibility, were he upon the Company's Statement alone to decide upon dispensing altogether, and without previous Communication with the Governor, with those measures of precaution which were deemed necessary, at the period at which the transfer of the Mines was agreed upon, for Securing the interests of the Public.

Consideration
of request.

Under these circumstances, His Lordship can only undertake to authorise General Bourke to receive the Coal furnished by the Company's Agent for the use of the Colonial Government at the price which you have named, provided he sees no reason to question the reasonableness of that Amount, and upon the understanding that he will have the power of returning to the original mode of ascertaining the cost price of the Coal to the Company, Viz., by the Statement made on Oath by the Manager, whenever it shall appear to the Governor necessary, with the view of satisfying himself that the Government are not charged higher for the article than the circumstances of the case justify.

Decision at
discretion of
R. Bourke.

I have, &c.,
R. W. HAY.

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25 Oct.

[Enclosure No. 3.]

COLONIAL SECRETARY MACLEAY TO SIR EDWARD PARRY.

Sir, Colonial Secretary's Office, 27th July, 1833.

Letter
acknowledged.

I have the honor to acknowledge the receipt of your letter of the 7th Instant, enclosing the Copy of one addressed by the Under Secretary of State to the Governor of the Australian Agricultural Company in reply to their proposal that the price for the whole quantity of Coal supplied should be eight shillings per Ton, instead of One fourth part of the whole disposed of by the Company being charged at the Cost price only; and requesting that, as it appears that the application has been referred to the Governor, His Excellency will comply with it.

Qualified
consent to fixed
price for coal.

Having laid your communication before the Governor, I am directed to inform you that his Excellency accedes to the proposal that the Government shall be furnished at the Pit's mouth with all the Coal wanted for its own consumption at the rate of Eight Shillings per Ton, reserving however the right to return to the Original Agreement whenever His Excellency thinks proper.

Reduction in
price of coal
by government.

I am also directed to inform you that this Government reduced the price of Coals from ten Shillings and sixpence to eight shillings per Ton on the 25th August, 1829, and not *three months* only before the working of the Mines was transferred to the Company as you seem to consider.

Protest against
increase in
price of coal.

I am likewise instructed to inform you, with reference to your intimation of a further rise in price to the public, that this Government is bound to pay its attention to the Subject, and to remonstrate if the Company should avail themselves of their monopoly to the prejudice of the Public for whose benefit the Mines were transferred by the Crown to the Company.

I have, &c.,
ALEX. MCLEAY.

[Enclosure No. 4.]

SIR EDWARD PARRY TO COLONIAL SECRETARY MACLEAY.

Sir, Port Stephens, 1st August, 1833.

Submission
of account for
retrospective
increase in
price of coal.

His Excellency the Governor having been pleased to accede to the proposal made by the Directors of the Australian Agricultural Company to H.M. Home Government to fix the price to be paid to the Company for coals furnished by them to the Local Government at Eight Shillings per Ton, as notified to me by your letter of the 27th ultimo,

I have the honor to enclose to you herewith an account in triplicate, amounting to £25 10s. 8d., Twenty five pounds, ten shillings and eight pence, for the arrears due to the Company upon the several quantities of coals furnished to the Colonial Department, and for which the sum of six shillings only per ton has before been charged on account; and I request you will obtain the sanction of His Excellency the Governor for the immediate payment of the above Sum.

I have, &c.,
E. W. PARRY.

[Sub-enclosure.]

Port Stephens, 31st July, 1833.

H.M. Colonial Government.

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DR. to the Australian Agricultural Company for the following quantities of coals supplied to the Department of the Master Attendant, charged in the original accounts rendered at Six shillings per Ton on account, but now agreed to be paid for by H.M. Government at Eight Shillings per Ton, as per letter from the Colonial Secretary dated 27th July, 1833.

Account of A.A. company for retrospective sales of coal.

Date of original account ordered.	When supplied.	Quantity.	Price.	Amount.
1832.		Tons cwts.		
July 10	Between 4th June and 30th June, 1832	10 2		
" 16	" 1 July and 30 Sept. "	107 5		
1833.				
Feby. 15	" 1 October and 31 Decr. "	64 0		
April 17	" 1 Jany. and 31 March, 1833.....	74 0		
	Total	255 7	@ 2/- pr. Ton.....	£25 10 8

E. W. PARRY.

UNDER SECRETARY HAY TO GOVERNOR BOURKE.

(Despatch per ship Numa.)

Sir,

Downing Street, 26th October, 1833.

26 Oct.

I have laid before Mr. Secretary Stanley your letter of the 15 March last, together with the one, which accompanied it from Mr. Busby, who fills the office of British Resident at New Zealand.

Despatch acknowledged.

Mr. Stanley approves of your having declined to issue to Mr. Busby full Salary for any part of the time, that he was, for the reasons stated by you, detained at New South Wales, half salary from the date of his landing there till his arrival in New Zealand being the utmost he had a right to expect. He also approves of the decision, which you formed in regard to the unreasonable application which he made for the Materials of a House and for the services of Mechanics and Constables.

Approval of decisions re applications from J. Busby.

In communicating to Mr. Busby the Secretary of State's decision upon these points, you will remind him that he was distinctly informed, at the time of his appointment, that his Salary of £500 would form the whole of his advantages and emoluments, and that, in subsequently acceding to his application for the framework of a house, the Secretary of State acted under the impression that the Local Government, from the means at their disposal, could at a trifling expence relieve Mr. Busby from a very heavy outlay, and on that ground alone was his request entertained.

Reasons for authorising framework of house.

I have, &c.,

R. W. HAY.

1833.
27 Oct.

GOVERNOR BOURKE TO RIGHT HON. E. G. STANLEY.
(Despatch No. 86, per ship Elizabeth; acknowledged by
right hon. T. Spring Rice, 20th August, 1834.)

Sir, Government House, 27th October, 1833.

Request by
T. Macquoid
for payment
of costs of
lawsuit.

I have the honor to transmit herewith a Memorial from Mr. Macquoid the Sheriff of this Colony, petitioning to be relieved from the payment of a certain Sum recovered against him in the Supreme Court on account of the default of one of his Bailiffs, on the ground that the Fees of the Sheriff's office, which have been received by Government since the fixing of the Sheriff's Salary at £1,000, ought to be considered as a fund for guarding him from all liabilities not arising from wilfulness or gross negligence; and soliciting likewise that such fees or a larger Salary than is at present allowed may be applied to the remuneration of a Deputy Sheriff for performing the duties of the Civil Branch of the Sheriff's Department.

On the first point, I have to observe that I see no reason to alter the opinion, which I directed to be conveyed to the Sheriff on his first making an application to me for the indemnity claimed, viz., "that I object wholly to the principle, which would oblige the Government to pay for the mistakes of the Sheriff not proved to be wilful, both as separating liability from the Acts of the Officer, and thereby taking away a chief motive of circumspection, and also opening a door to the Public Treasury, which would never be closed." To this communication (a letter from the Colonial Secretary to The Sheriff, dated 6th July, 1833), I also beg leave to refer you for the circumstances of the case in which the Sheriff applied for indemnification.

Request re
salary of
deputy sheriff.

With regard to the alteration requested in the Salary of the Deputy Sheriff, who is now allowed £200, I beg to premise that the Salaries in the Sheriff's Department amount to £1,800 per annum, while the Fees for 1832 amounted to £727 16s., and are not likely to be increased this year; and it appears by a Minute of the Chief Justice transmitted herewith that the Judges are not prepared to advise any increase of the present rate of Fees, which is conformable to that of the Sheriff's Office in England. I stated in a despatch to Mr. Hay of the 25th May, 1833, that, on a new appointment, whenever such shall take place, I thought it would not be difficult to find a responsible person possessing a legal education and therefore better able to guard against mistake and loss, who would be willing to undertake all the duties of the Office (Civil and Criminal) for the fees only. This opinion I still retain. It is at the same time true that the duties devolving

on the Sheriff in the Criminal branches of this department, for which no fees are receivable, are much more onerous here than in the most populous County of England.

1833.
27 Oct.

On these facts taken together, I should recommend that no alteration be made in the present arrangement, by which both the Criminal and Civil business is to be done, and its liabilities borne for £1,800 distributed in Salaries to the Sheriff and his Officers, Government receiving the Fees; or that the Fees be allowed to the Sheriff, from which to defray the Salaries and other expences of his Officers and Clerks, with a Salary to himself of £600 a year for discharging the Criminal duties, to be raised to £800 a year on the establishment of Circuit Courts and to include charges for travelling. If the latter arrangement be made, I should recommend that it be considered and expressed to be personal to Mr. Macquoid, and not to be taken as a basis upon which the Office is permanently to rest. The greater facility and security, with which the duties of the Office could be fulfilled by a person bred to the Law, would enable such a person to undertake them for a less remuneration than would answer the purpose of the present Sheriff.

Arrangements
proposed for
sheriff's office.

I have to add that, in order to prevent the ill-effect which would have arisen from an execution against the goods of the Sheriff, I authorized the payment to him in advance of Salary of £287 16s. 8d., the amount of debt and costs in the Action referred to in his Memorial. For this Sum, I have taken his Bond.

Advance of
salary to
T. Macquoid.

A few other matters relating to the Office of Sheriff are embraced in the Memorial of Mr. Macquoid, concerning which, as they are connected with the Judicial arrangements of the Colony, I have no observations to make beyond expressing my concurrence in those, which are comprised in a Minute of the Chief Justice addressed to the Colonial Secretary of the 14th October, 1833, and transmitted herewith.

Copies of letters addressed by the Sheriff to this Government being appended to his Memorial, the Copies of the Official replies to such letters are also forwarded herewith, as also a letter from Mr. Justice Burton on the general subject of his Memorial addressed to myself.

Papers
transmitted.

I have, &c.,

RICHD. BOURKE.

[Enclosures.]

[Copies of these papers are not available.]

1833.
1 Nov.

GOVERNOR BOURKE TO RIGHT HON. E. G. STANLEY.

(Despatch No. 87, per ship Elizabeth; acknowledged by
right hon. T. Spring Rice, 9th July, 1834.)

Sir, Government House, 1 November, 1833.

Transmission
of letter from
F. Forbes.

At the request of Chief Justice Forbes, I have the honor to transmit the accompanying letter upon the subject of his Official residence in Sydney. I have every reason to believe that the Chief Justice was convinced, on taking his Seat on this Bench, that the advantage of an Official Residence was fully secured to him, and I would therefore earnestly hope that the application, he now makes to retain it, may be favorably received.

Recommend-
ation of
application.

I have, &c.,

RICHD. BOURKE.

[Enclosure.]

CHIEF JUSTICE FORBES TO RIGHT HON. E. G. STANLEY.

Sir, Sydney, New South Wales, 28th October, 1833.

Protest by
F. Forbes re
rent of official
residence.

In presuming to address you personally, I feel that I am bound to offer a sufficient apology for doing so. I will therefore briefly state that this letter is intended as an appeal to your justice from what appears to have been a direction* given by your predecessor, Lord Goderich, respecting the payment of rent for the house occupied by me, as the Chief Justice of the Supreme Court. In order to bring the whole subject under your view, I would beg leave to lay before you the following circumstances.

Appointment as
chief justice.

Upon my retiring from the Office of Chief Judge of Newfoundland in the year 1822, I was recommended by Earl Bathurst, without solicitation on my part, for the appointment of Chief Justice of the Supreme Court, then about to be instituted in New South Wales; and I was informed that my salary would be fixed at two thousand pounds a year, without fees or other allowance, except an official residence, which was already provided in the Colony, and would be kept in repair at the expense of the Government. I would here beg leave to observe in explanation that, at the time of my appointment, there were two Judges in the Colony, who respectively presided over the criminal and the civil courts, for each of whom an official house had been provided at the public charge; and, as both of these houses would become vacant, it was considered an arrangement of mutual convenience that one of them should be assigned to me in lieu of a larger salary. This was the clear understanding at the time, and, in furtherance of it, a plan of the house I now occupy, which was at that time in the Colonial Office, was lent to me by direction

Promise of
official
residence.

* Note 65.

of Mr. Wilnot Horton to enable me to adapt my furniture to it in London. It is now so many years since this arrangement took place, that it may be difficult to refer to any record of it in the Colonial Office, especially as it was substantially incorporated into the charter,* and confirmed, as I considered, by its express provisions. I think, however, that Mr. Stephen, who prepared the charter, will remember the circumstances under which the proviso relating to the residence of the Chief Justice was inserted. For the facility of reference, I have the honor to annex to this letter a printed copy of His late Majesty's charter, under which the Supreme Court is at present held, and you will observe, Sir, that by the sixth section I am expressly protected from the payment of rent for my official residence.

1833.
1 Nov.

Mention of
official
residence in
charter of
justice.

On the 4th September, 1833, I had the honor to receive a communication from His Excellency the Governor, informing me that "instructions had been received from His Majesty's Government to require the Colonial Secretary and the Chief Justice to pay the Government a fair and equitable rent for their official residences, from the 1st July, 1832, for the period they shall occupy them, the Secretary of State not feeling himself at liberty to revoke the directions of his predecessor upon this point." As this requisition appeared to me to be at variance with the terms of the Charter, I was naturally led to suppose that the circumstance had not been presented to His Lordship's view at the time, and I requested His Excellency to give me such further information as he might be at liberty to communicate upon the subject. I now understand that the original directions of Lord Goderich were contained in a despatch dated 29th September, 1831, in which His Lordship, adverting to the Offices of this Colony generally, is pleased to observe that, although no reduction had been recommended by the committee of the House of Commons in the one which I have the honor to hold, yet His Lordship saw no reason for continuing the indulgence of an official residence. To that despatch, Sir, I would most respectfully call your attention; it contains no allusion to His Majesty's Charter, and I cannot but assume that His Lordship was not aware that an official residence had been provided for me, as a part of my fixed judicial allowance. I entertain the greater confidence upon this point, because of His Lordship's high sense of justice and of his recorded efforts to place the salaries of the Judges in the Colonies upon the same settled basis as the salaries of His Majesty's Justices in England. And you will further perceive, Sir, upon referring to the despatch of the 29th of September, that His Lordship was pleased to consider an express promise to the

Orders for
payment of rent
for official
residence.

1833.
1 Nov.

Superannuation
allowance
granted to
A. Macleay.

Residence
occupied by
A. Macleay.

Appeal for
justice.

Colonial Secretary of being permitted to receive a superannuation allowance of £750 a year, in addition to his salary of £2,000 a year, as binding upon the Government, although it is admitted that the emoluments of that office greatly exceeded what His Lordship considered to be an adequate remuneration for the duties. And I feel quite assured that His Lordship would not have deemed a promise, made to the Colonial Secretary, under such circumstances, more binding than a compact entered into with the Chief Judge of the Supreme Court, and solemnly recognized by His Majesty's Charter. I hope it will not be deemed out of place if I add that the house alluded to by Lord Goderich, as being occupied by the Colonial Secretary, is in fact the house formerly attached to the office of the Judge of the Criminal Court; and, upon the abolition of that Court, it was occupied by Major Goulburn, the then Colonial Secretary, with the permission of the local Government, as a mere indulgence; and, upon Major Goulburn's retirement, it came into the possession of his successor, the present Colonial Secretary.

Under these circumstances, Sir, I think you will admit that my case stands upon its own grounds, both in a legal and personal point of view, and that no other servant of the Crown is similarly situated. The salaries of all the other public Officers have been progressively increased, since I came to this Colony, and in some instance to double their original amount. Mine alone has remained stationary; and I feel some confidence, if its duties be examined, that it will not be thought overpaid. I have, Sir, stated my case as plainly as I can, and I will appeal to you, as I would have appealed to Lord Goderich if His Lordship had continued in office, with the fullest confidence of receiving justice at your hands. It would be, to me, a source of much pain and mortification to be supposed to receive any thing from the public, beyond what might be a fair remuneration for my services; and I will cheerfully abide by any decision you may deem just. Should you, Sir, be pleased to consider the further continuance of an official residence unreasonable, or attended with inconvenience to Government, I will immediately resign my claim. But I would respectfully submit that some short time be allowed me to build a suitable residence, which I am not aware I could hire at present; and that His Excellency the Governor be instructed to assign me a convenient piece of ground for such purpose.

I have, &c.,

FRANCIS FORBES,

Chief Justice, New South Wales.

GOVERNOR BOURKE TO RIGHT HON. E. G. STANLEY.

1833.
2 Nov.

(Despatch No. 88, per ship Elizabeth; acknowledged by
right hon. T. Spring Rice, 6th June, 1834.)

Sir, Government House, 2nd November, 1833.

I have the honor to transmit herewith the Copy of a letter received from Chief Justice Forbes, requesting me to obtain His Majesty's gracious allowance of a Rule of the Supreme Court of this Colony, made on the 29th September, 1829, for dividing the business of the profession of the Law in that Court in like manner as the same is divided in England, and for giving to the Practitioners admitted in the Court at the date of the Rule the power of electing to which branch of the Profession they would adhere.

Request for approval of rule for division of legal profession.

This Rule, it appears was transmitted with others by my Predecessor in his despatch No. 27/1831. It contains a suspending clause, by which its operation has been deferred until His Majesty's pleasure shall be made known. No intimation of the King's commands having been received, the Rule remains inoperative. It has now become very desirable that it should take effect without further delay, and I have therefore to request that you will please to recommend its immediate sanction at your earliest convenience.

With respect to that part of the Rule, which gives to the Practitioners the choice of the branch of the profession to which they are to adhere when the separation shall take place, I am authorized to say that, if the Rule for separation were to be made for the first time at this period, The Judges would not desire to allow a choice to the Practitioners and would admit none but Barristers to practise as such. If, in the new Charter of Justice, which I have been informed is preparing for the Colony, the regulation of the practise of Barristers and Attornies should form any part, it will not I conceive be advisable to allow of any choice to the Parties on a Separation of their practise taking place.

Objections to right of choice of branch of profession by practitioners.

I have, &c.,

RICHD. BOURKE.

[Enclosure.]

CHIEF JUSTICE FORBES TO GOVERNOR BOURKE.

Sir, Sydney, 28th October, 1833.

I had the honor some time since to enclose to His Excellency General Darling certain Rules for the conduct of business in the Supreme Court of this Colony, in order to their being transmitted to England for His Majesty's allowance, in conformity with the Act of Parliament, 9th Geo. 4, Cap. 83, S. 16, which, as appears by an Official notice published in the Government Gazette under date April 6th, 1831, were duly transmitted by His Excellency to His Majesty's Government. I have been informed that his Majesty's pleasure has not been signified with respect to the particular Rules

Transmission of rules of court for approval.

1833.
2 Nov.

Suspending
clause in rule
for division
of legal
profession.

referred to; but, as it is provided by the Act that all Rules of Court promulgated by the Judges shall be in force until His Majesty shall disallow them, no inconvenience has been experienced upon that account, Your Excellency will, however, observe that the very important Rule, which relates to the division of the profession of the Law and the separation of the barristers and attornies, is in express terms Suspended until the allowance of His Majesty shall be first signified. This suspending clause was introduced in consideration of the very important changes its immediate operation would effect, and the great inconvenience which would result, if it should be ultimately disallowed. It was also expected by the Judges that, by promulgating the Rule in its present form, the practitioners would be induced to adapt their practice gradually to the contemplated division, and sufficient time would be afforded them for making the necessary arrangements. For the same reasons, this important measure has not been pressed upon the further consideration of His Majesty's Government. The expectations of the Judges have in the mean time been realized, and I have now the satisfaction of informing your Excellency that my brethren and I concur in opinion that the time is fully arrived when the two Departments of the profession may be separated, without serious inconvenience to the practitioners and with permanent advantage to the Suitors and the Court; and I have the honor to request that your Excellency will bring the Subject of this letter under the early consideration of the Right Honorable the Secretary of State for the Colonies, and be pleased to suggest the expediency of recommending to His Majesty, either to signify His Most gracious allowance of the Rule transmitted to England, as before stated (a Copy of which I have the honor to annex for the convenience of reference) or to sanction the promulgation of a new Rule by the Judges in this Colony to take effect immediately for dividing the profession.

I have, &c.,

FRANCIS FORBES,

Ch. Justice Supreme Court.

[Sub-enclosure.]

RULE OF COURT.

Rule of supreme
court for
division of
legal profession.

THAT the business of the profession of the Law be divided in this Court in like manner as the same is divided in England, *provided that this Rule shall not take effect until His Majesty's pleasure shall first be made known.*

That the several Practitioners admitted in the Supreme Court at the date of this Rule be allowed to elect to which branch of the profession they will adhere; such election to be made and signified to the Court within the time limited for the preceding Rule* to take effect.

Qualifications
required for
barristers;

That no other persons be admitted as Barristers in the Supreme Court, unless such persons shall have been duly admitted as Advocates or Barristers in some one or other of the King's Courts in Great Britain or Ireland.

and for
solicitors.

That, from and after this Rule, the following persons only shall be eligible to act as Solicitors or Attornies in the Supreme Court, Viz. :—

1st. Persons actually admitted as Solicitors, Attornies, Proctors, or Writers to the Signet, in some one or other of the King's Supreme Courts within the United Kingdom of Great Britain or Ireland.

2. Persons having been articled to some practising Solicitor or Attorney in New South Wales, and having served the term of five years of Clerkship.

1833.
2 Nov.

3. Persons, who having been so articled and served for any period of time, shall complete the residence of the full term of five Years of Clerkship in England; or who, having been duly articled and served as aforesaid in England, shall complete the residue of the full term of five Years of Clerkship in New South Wales; or

Qualifications
required for
solicitors.

4. Persons who shall have served the term of five Years as a Clerk in the Office of the Supreme Court.

RIGHT HON. E. G. STANLEY TO GOVERNOR BOURKE.

(Despatch No. 50, per ship Numa.)

Sir,

Downing Street, 5th November, 1833.

5 Nov.

I have received your Despatches No. 37 of the 1st, and No. 52 of the 18th of May last.

Despatches
acknowledged.

The claim of Mrs. Henry Cooper, submitted in your Despatch No. 37, to a Grant of Land, which Sir Thomas Brisbane had in 1825 authorised her husband to select, but which Mr. Cooper neglected to do until after the promulgation of the new Regulations, has very properly been rejected by you.

Refusal of
land grant for
C. Cooper.

The general view, which is taken in your Despatch No. 52 of the case of Mr. E. S. Hall, meets with my concurrence. He certainly is entitled to receive the Thousand acres, granted to him by General Macquarie in the particular spot intended by that Officer, and, of course, ought not to suffer for an oversight of the local Government; but, at the same time, I see no reason for giving Mr. Hall a larger quantity than General Macquarie meant him to receive. You will, accordingly, put him in possession of One Thousand acres only in that position, and, if he should still be desirous to have his Grant bounded by the Lake, you will require him to surrender a portion of his original Grant, equal to the quantity that he may obtain between the former and present margins of the Lake. In the absence of a Map of the locality, I am unable to judge how far the interests of Mr. Henry Hall (whose Grant adjoins and, indeed, as I understand the matter, encroaches upon that of Mr. E. S. Hall) may be affected by this measure; but, as the latter had priority of possession, Mr. Henry Hall must give way if necessary, and be compensated with Land elsewhere for any loss which he may sustain, to such extent as, in your opinion, the justice of his case may appear to require.

Instructions
re land grants
to E. S. and
H. Hall.

I am, &c.,

E. G. STANLEY.

1833.
6 Nov.

RIGHT HON. E. G. STANLEY TO GOVERNOR BOURKE.
(Despatch No. 51, per ship Numa.)

Sir, Downning Street, 6th November, 1833.

Instructions *re*
land grant for
A.A. company.

By the despatch addressed to you by Lord Goderich on the 23d March last, No. 153, you were made acquainted with the decision of His Majesty's Government in respect to the tract of Land selected on behalf of the Australian Agricultural Company by their Agent, Sir Edward Parry, to which certain objections had been made by you on the report of the Surveyor General. I do not consider it, therefore, necessary to enter upon the consideration of the contents of the further Despatch, which you have sent home upon this subject, dated the 6th May last, No. 43, as the question has been finally set at rest by that decision.

I am, &c.,
E. G. STANLEY.

RIGHT HON. E. G. STANLEY TO GOVERNOR BOURKE.
(Despatch No. 52, per ship Numa.)

7 Nov.

Sir, Downning Street, 7th November, 1833.

Approval of
dismissal of
N. L. Kentish.

I have received your Despatch No. 45 of the 9th May last, reporting the dismissal of Mr. Kentish from his situation as Assistant Surveyor. The tone of the letters, which he addressed to yourself and to the Head of his Department, was extremely reprehensible, and, coupled with his previous misconduct, quite warranted the decision which you adopted.

Criticism of
advance for
passage money.

With respect to the Salary which you authorised to be issued to him for the purpose of enabling him to return to this Country, although I shall not withhold my sanction in this instance, yet I think it right to caution you against such an indulgence in future, as I consider that any Officer, whose conduct may have been such as to call for his removal from the Public Service, should not be relieved from the inconveniences to which such a course may have subjected him.

You are at liberty to engage the services of the person referred to in your Despatch at the rate of £120 per annum to supply the place of Mr. Kentish; but you will acquaint him that the duration of his employment must depend upon the opinion, that may hereafter be entertained of the value of his services and of the necessity of their being continued.

I have, &c.,
E. G. STANLEY.

UNDER SECRETARY HAY TO GOVERNOR BOURKE.

1833.
10 Nov.

(Despatch per ship Numa.)

Sir, Downing Street, 10th November, 1833.

I have had the honor to receive and to lay before Mr. Secretary Stanley your letters of the dates noted in the margin.*

Despatches
acknowledged.

The explanations afforded in your letter of the 16th May, respecting the complaints of Mr. Smeathman, the Coroner of Sydney, as to the inadequacy of his Emoluments and his Grant of Land, are satisfactory to Mr. Stanley. You will, therefore, acquaint Mr. Smeathman that the Secretary of State does not see any occasion for his further interference in the matter.

Decision *re*
complaints of
C. T.
Smeathman.

Mr. Stanley concurs in the opinion, expressed in your letter of the 25th May, that it would be inexpedient to change the Rank assigned by Sir George Murray to the Sheriff of New South Wales in the Table of Precedency. You will be good enough to communicate this decision to Mr. Macquoid. Whenever it may become necessary to select another Gentleman for this situation, your suggestion in regard to his qualifications will receive consideration.

Precedency
of sheriff.

The sum of money, to be taken in Land, which has been awarded to Mr. James King by the Executive Council for his discovery of the valuable properties of certain Sand found in the neighbourhood of Sydney, is, in Mr. Stanley's opinion, amply sufficient. Mr. King must look for further remuneration to the advantages, which a commercial speculation in the Sand may appear to afford. You will be good enough to communicate to Mr. King the result of this reference of his case to England.

Approval of
money awarded
to J. King.

In compliance with the request contained in your letter of the 3d July, I enclose a copy of Mr. Twiss's letter to your Predecessor of the 27th November, 1828. It, however, only relates to the amount of annual increase, which ought to take place in the Salaries of the Clerks in the several Departments of your Government, the question of attendance having formed the subject of a Despatch from Sir George Murray of a later date, of which I enclose an extract for your information.

Transmission
of letters.

I am, &c.,
R. W. HAY.

[Enclosure No. 1.]

UNDER SECRETARY TWISS TO GOVERNOR DARLING.

(Despatch marked Private.)

[A copy of this despatch will be found on page 498, volume XIV.]

* Marginal note.—16th May, 1833; 25th May, 1833; 3rd July, 1833; 3rd July, 1833.

1833.
10 Nov.

[Enclosure No. 2.]

EXTRACT Sir G. Murray to Genl. Darling, 12 April, 1829, No. 93.
"THE very full explanations, which Mr. Lithgow has given in his letter in respect to his own duties and that of the persons belonging to his Office, may furnish sufficient grounds for the increase of Expenditure; wh. the arrangements suggested by him will occasion; but you will acquaint that Officer and the Clerks of his Dept. that, when augmentations of Income and of assistance are acceded to only on the express condition that if the Estabtd. shall not be found fully adequate to keep down the business of the Dept. at the present rate of official attendance, which appears to be for only seven hours a day, they will be required to afford without further increase of Salary such additional attendance as that business shall require, not exceeding a daily average of nine hours diligently and efficiently employed."

Proposed
increase of
hours for
official work.

UNDER SECRETARY HAY TO GOVERNOR BOURKE.
(Despatch per ship Numa.)

11 Nov.
Instructions
re J. Orr.

Sir, Downing Street, 11th November, 1833.
I am directed by Mr. Secretary Stanley to transmit to you the enclosed letter, which has been received from a Clergyman at Paisley, and to request that it may be forwarded to James Orr; but, in the event of the Prisoner's decease, I am to request that you will return it, accompanied by a Certificate of the date of his death, in order that his Children may benefit by a small legacy which, it appears, has been left to the Father.

I am, &c.,
R. W. HAY.

[Enclosure.]

[A copy of the Revd. J. Macnaughten's letter, dated 28th October, 1833, is not available.]

RIGHT HON. E. G. STANLEY TO GOVERNOR BOURKE.
(Despatch No. 53, per ship Numa.)

12 Nov.
Refusal of
remission of
quit rent for
T. B. Wilson.

Sir, Downing Street, 12th November, 1833.
I have received an application from Dr. Wilson, with the twofold object of obtaining a remission of Quit Rent on an Allotment of Land granted to him by General Darling in pursuance of Instructions from the Secretary of State, and of being relieved from the usual restriction of residence. I have not felt myself at liberty to relieve Dr. Wilson from any charge, to which the land in question may be liable on account of Quit Rent; but I have no objection to meet his wishes in regard to the condition of personal residence, so far as to authorise you to extend the period to two years from the 12th of March next, as

Extension
of term for
residence.

I consider that the employment of Dr. Wilson in charge of Convicts on their passage out to the Colony, and the outlay of Capital which it would appear has already taken place upon his Land, is a sufficient Guarantee of his intention of residing upon it, as soon as that employment shall cease; and that no inconvenience can, therefore, accrue from dispensing with the strict enforcement of the Regulations in this particular in Dr. Wilson's case.

I have, &c.,

E. G. STANLEY.

1833.
12 Nov.

Extension
of term for
residence.

RIGHT HON. E. G. STANLEY TO GOVERNOR BOURKE.

(Despatch No. 54, per ship Numa.)

Sir,

Downing Street, 13 November, 1833.

13 Nov.

I have received and referred, for the consideration of the Lords Commissioners of the Treasury, your Despatch No. 14 of the 24th January last, respecting the claim of Mr. J. R. Kent to be paid the sum of £297 0s. 2d., on account of certain Disbursements made by him, while in the command of a Government Vessel. Their Lordships, having called upon Deputy Commissary General Wemyss for his report upon the claim, the statement of which a copy is enclosed, has been received from that Officer, by which you will perceive that Mr. Wemyss does not consider Mr. Kent to have any well founded claims against the Government.

I am, &c.,

E. G. STANLEY.

Report
submitted
advise to
claims of
J. R. Kent.

[Enclosure.]

DEP. COMMISSARY-GENERAL WEMYSS TO HON. J. STEWART.

Sir,

Edinburgh, 1st October, 1833.

I have the honor to acknowledge the receipt of your letter of the 26th Ultimo, transmitting the Copy of a Letter from Major General Bourke and its several Enclosures.

Having perused the same, I now at your desire hasten to return them, and to observe that the accounts in question preferred by Mr. Kent were submitted to me many years ago, is admitted; but why they were not adjusted Mr. Kent can best tell. He left the Colony, returned once or twice, but of this I am not certain, however, with the opportunity certainly, if he had felt aggrieved of submitting his case to the Governor.

I objected to them, if my memory serves me, on the principle that, as the Master of a Government Vessel, he was not authorised to carry on any traffic. He received his stipulated Pay and the Crew their regular wages; and, therefore, in the absence of any instructions to the contrary the gain if any should have been to his Employer, the Public.

I perfectly well remember as another ground of objection that, of a quantity of Spirits put on board of one of the vessels Mr. Kent had charge of, no satisfactory account was given. The Master Attendant I am sure will bear me out in this; nor would I am persuaded have given his sanction, had he known it to be any thing

Report by
W. Wemyss
on claims of
J. R. Kent.

1833.
13 Nov.

Report by
W. Wemyss
on claims of
J. R. Kent.

under the denomination of private Trade, for to have attained the objects of the Voyage on which he was sent he had the resources of the Government, the Command of the King's Stores.

I know not if it was at the time, but I should certainly do so now, were it found necessary, object to his scheme of conversion, one Article for another. No such practice then existed, nor was he authorised to do so.

I should in like manner object to the charge of condemned Biscuit and Flour without proof, of which some was offered.

I should have required also to be furnished with the Authority, under which he provided so many Thousand Rations to more than his Complement of Men, and for what purpose no less a quantity than 4,402 lb. Salt was expended.

There are many other points on which I think objections may fairly be urged with Mr. Kent; and his Agent must know well that my departure from the Colony was announced eighteen months before it actually took place, thereby affording ample time for claims of every description to have been preferred.

If application had been made even after this great lapse of time, a period of seven years from the commencement of the account, I should have been most happy to have met Mr. Kent or his Agent; but I hesitate not to say that no well founded claim on his part exists against the Public.

I have, &c.,

W. WEMYSS, D.C.G.

RIGHT HON. E. G. STANLEY TO GOVERNOR BOURKE.
(Despatch No. 55, per ship Numa.)

18 Nov.

Approval of
issue of tickets
of leave.

Sir, Downing Street, 18 November, 1833.

I have had the honor to lay before the King your despatch No. 46 of the 10th May last, together with the List of 84 Male and Female Convicts in New South Wales, whom, for the reasons stated in your Despatch, you recommend for the indulgence of "Tickets of Leave"; and I have to acquaint you, in answer, that His Majesty has been graciously pleased to signify His approval of the issue of Tickets of Leave to these Prisoners.

Their names are enumerated in the enclosed List.

I am, &c.,

E. G. STANLEY.

RIGHT HON. E. G. STANLEY TO GOVERNOR BOURKE.
(Despatch No. 56, per ship Numa; acknowledged by
Governor Bourke, 25th September, 1834.)

21 Nov.

Consideration
of financial
statements.

Sir, Downing Street, 21st November, 1833.

Having forwarded for the consideration of the Lords Commissioners of the Treasury the Abstract of the Revenue and Expenditure of New South Wales for the year 1832, which accompanied your Despatch No. 36 of the 8th April last, their Lordships have applied to me for the Quarterly Returns and Abstracts, which were called for by Lord Goderich's Circular

Despatch of the 28th February, 1832. As you have not sent any of these Returns and Abstracts for 1832, and as you have not assigned any reason for the omission, I am induced to imagine that you have misapprehended the terms of the Instructions conveyed to you by his Lordship, and have supposed that the *Statement for the whole year* was what the Board of Treasury required. I, therefore, must explain to you distinctly that the Returns and Abstracts, specified in the Treasury letter, which accompanied the Circular before-mentioned, are, in the case of New South Wales, to be made up and sent home immediately after the end of each Quarter; you will, accordingly, give the necessary Instructions to the Colonial Treasurer for his guidance in future, and direct him to prepare, without loss of time, these Returns and Abstracts for the year 1832, together with those for the Quarters of 1833, which may have expired when you receive this Despatch. In conveying these directions to the Treasurer, you will apprise him that any neglect in punctually transmitting the Returns and Abstracts in question, hereafter, will be visited with the serious displeasure of His Majesty's Government.

1833.
21 Nov.

Instructions *re*
transmission of
quarterly
returns and
abstracts;

As this measure will occasion the Accounts to be kept Quarterly, I see no reason why their Audit should not take place then, instead of being deferred till the end of the year as at present; by this means, the early transmission of the "Blue Book" would be facilitated, which has, hitherto, I understand, been delayed principally on account of the Financial Returns, the preparation of which cannot commence till after the Accounts have been passed by the Auditor. You will, therefore, give the necessary directions to the Auditor General for the purpose.

and *re* quarterly
audit of
accounts.

I am, &c.,

E. G. STANLEY.

GOVERNOR BOURKE TO HON. J. STEWART.

(Despatch No. 12. per ship Children.)

Government House,

Sir,

Sydney, 21st November, 1833.

I have the honor to acquaint you, for the information of the Lords Commissioners of H.M. Treasury, that, on the application of Deputy Commissary General Laidley, I have caused a further payment of £10,000 to be made from the Colonial Treasury to the Military Chest on account of Commissariat claims accruing between the years of 1828 and 1831 both inclusive.

Payment from
treasury to
military chest.

This is the third payment of £10,000 made in this manner, and the claim of the Military Chest on the Colonial Treasury has been thereby nearly liquidated, a sum of little more than £2,000 now appearing to be due.

Amount owing
to military
chest.

1833.
21 Nov.
Want of
demand for
treasury bills.

I ought also further to state that the same causes, which are mentioned in my despatch of the 4th May, 1832, as leading me to apprehend an insufficient demand for Treasury Bills, still exist, and are even stronger than they were at that period; and, as so small a sum now remains due to the chest from the Colony, I have particularly to request the attention of the Lords of the Treasury to the difficulty in which the Commissariat of this Colony will be placed, unless some other means are provided for replenishing its funds.

I have, &c.,
RICHD. BOURKE.

RIGHT HON. E. G. STANLEY TO GOVERNOR BOURKE.
(Despatch No. 57, per ship Numa.)

22 Nov.
Instructions re
land grant for
W. Raymond.

Sir,

Downing Street, 22d November, 1833.

I have lately had under my consideration a letter addressed to this Department by Mr. Walter Raymond, whose case is referred to in Lord Goderich's Despatch to General Darling of the 27th December, 1830, respecting a Grant of Land consisting of 2,500 Acres, to the confirmation to him of which difficulties subsequently arose under the circumstances, which are fully explained in General Darling's Report of the 14th July, 1831, and in Lord Goderich's reply of the 28th of December following. Upon an examination of Mr. Raymond's first application, and upon a comparison of the statements which he then made with the information furnished by General Darling, I am inclined to take a more favorable view of Mr. Raymond's case than his Lordship appears to have done after the receipt of General Darling's communication, as I do not perceive that any representation was made by Mr. Raymond, when he first brought his claim under the notice of this Department, which was so far controverted by the enquiry subsequently instituted, as to nullify the conditional promise originally held out to him in regard to the Land in question. I have, therefore, to desire that the Agent of this Gentleman may be immediately placed in possession of a Grant of 2,500 Acres of Land upon the conditions in force, in respect to Quit Rent prior to the year 1831, with the understanding that, if within three years from this date, Mr. Raymond shall not have returned to the Colony, and established himself as a permanent Settler upon his Grant, he will forfeit all claim to it, and the Local Government be competent to resume the same, without reserve, on the part of the Crown.

I have, &c.,
E. G. STANLEY.

RIGHT HON. E. G. STANLEY TO GOVERNOR BOURKE.

1833.
25 Nov.

(A circular despatch per ship *Hive*; acknowledged by Governor Bourke, 10th September, 1834.)

Sir, Downing Street, 25th November, 1833.

The Lord President of the Council has signified to me that, in order to the formation of rules to guide the proceedings of the Privy Council as a Court of Appeal under the Act of 3 and 4 William 4th, C. 41, the Judicial Committee of the Privy Council deem it expedient that Returns should be obtained from the several Colonial Courts "of all Rules and Regulations as to appeals to His Majesty in Council, the time allowed for appealing, the fees payable in respect of applications to appeal, and authenticated Copies of proceedings, the deposits and securities required, and generally the whole practice in each Court touching appeals to the King in Council."

Report required re practice of supreme court in appeals to privy council.

And I have to desire, therefore, that you will transmit to me the above Returns as soon as possible, so far as relates to your Government.

I have, &c.,

E. G. STANLEY.

GOVERNOR BOURKE TO RIGHT HON. E. G. STANLEY.

(Despatch No. 89, per ship *Children*; acknowledged by earl of Aberdeen, 25th February, 1835.)

Sir, Government House, 26 Novr., 1833.

26 Nov.

I have the honor to transmit for His Majesty's gracious allowance 13 Acts of Council passed during the last Session, the particular objects of which I proceed concisely to state.

Submission of acts of council.

3 Wm. IV, No. 8, Is an Act for Licensing Public Houses and regulating the Sale of fermented and Spirituous liquors. This Act was rendered necessary by the expiration of the former licensing Act* and contains only such variations as experience and local circumstances suggested.

Licensing act.

4 Wm. IV, No. 1, Is an Act for protecting from encroachment and damage and facilitating the formation of the Tunnel for supplying the Town and Port of Sydney with Water. This Tunnel in its present state produces a daily supply of about 144 Tuns, besides the supply to Shipping, which averages about 600 Tuns per Month. This proves, according to a Report of a Committee of the Legislative Council formed for investigating the subject, a sufficient supply for the present consumption, and, when the Tunnel is completed, it will be most ample. This government is now adopting every means to promote the speedy and

Act re tunnel for water supply of Sydney.

* Note 68.

1833.
26 Nov. economical completion. A Report upon this work, as desired by Lord Goderich on the 12th December last, is transmitted in a separate despatch.
- Census act. 4 Wm. IV, No. 2, Provides the means of taking a general Census of the Inhabitants of this Colony. When this Census is completed, I shall have the honor to transmit the Returns made under the act to His Majesty's government.
- Impounding amendment act. 4 Wm. IV, No. 3, Is an Act repealing the former Law,* which regulated the impounding of Cattle and substituting new provisions. The former rates of damages and pound fees were felt to be extremely high and oppressive, as the fall in the price of Cattle rendered their proportion to the value greater than before.
- Minor courts fees act. 4 Wm. IV, No. 5, Regulates the Fees to be taken in the Courts of Police and Petty Sessions, and by Clerks of Justices acting singly. These were before directed to be similar to those taken in the county of Middlesex; but different opinions as to the rates, which prevailed there, had led to considerable variety and uncertainty. The rates are now equalized in the various Districts and for the most part moderated, as they were generally higher than was deemed reasonable.
- Appropriation act. 4 Wm. IV, No. 6, Is an Act Appropriating the Revenue of 1834 to certain purposes therein named. I have had the honor to forward a Copy of this Act with my remarks thereon by a Separate Despatch.*
- Sydney police act. 4 Wm. IV, No. 7, Provides for the better regulation of the Police of the Town and Port of Sydney. A Copy of this Act with my observations thereon has also been already transmitted to you.†
- Act for appropriation of fees for spirit licenses. 4 Wm. IV, No. 8, Applies the amount collected on the issue of licenses to retail fermented and Spirituous Liquors in the year 1833 towards the Expences of the Police Establishment. This Legislative Appropriation became necessary in consequence of a provision in the Licensing Act of this year that the proceeds of Licenses should be paid into the Colonial Treasury and not into the Military Chest as heretofore. In future, the aid, which the Council may direct to be given for the support of the Police in this Colony, will form a Provision in the Annual Appropriation Act.
- Act for erection of court of claims. 4 Wm. IV, No. 9, Is an Act for appointing and Empowering Commissioners to hear and determine on claims to grants of Land† under the great Seal of the Colony. The number of Claimants to such grants, whose Titles rest on evidence requiring minute investigation has been so much increasing of late, that it had become absolutely necessary to establish some

* Note 69.

† Note 70.

Tribunal of this nature to consider and decide upon their validity. Upon communicating with the Judges, they recommended the appointment of Commissioners by a Legislative enactment, which they prepared, and which was laid before Council and passed into a Law. I have little doubt that the whole business will be gone through with in the time specified by the Act, namely two years from the passing of the Act, and that the expense will not be considerable to the Colony as the greater part will be defrayed by the Claimants.

1833.
26 Nov.

4 Wm. IV, No. 10, Is an Act for protecting the Crown Lands of this Colony from encroachment, intrusion or trespass. It authorises the appointment of Commissioners to act as the representatives of the Crown in all matters relating to property in Land, and more particularly to make such entries as should prevent the rights of the Crown from being affected or lost sight of by mere occupation without purchase for a long space of time. I do not however propose, nor could I recommend it as a measure of Sound Policy to seclude settlers from the temporary occupation without payment of those tracts of Country in the remote interior, which are already so occupied as Stock Stations.

Crown lands
encroachment
act.

4 Wm. IV, No. 11, Is an Act for making altering and improving the Public Roads of the Colony. It regulates the manner in which public roads are to be traced and carried through private property, and provides for compensating individuals for land required for such roads by the decision of a Jury impanelled to assess its value, as nearly as possible in accordance with the Law of England. This compensation can be granted only in those cases, in which no reservation for roads is to be found in the grant of such Land from the Crown.

Roads and
streets act.

Provisions have been added, enabling individuals to apply in certain cases to the Surveyor General to mark out for them a private road over the Land of other Persons as a means of access to their own Property; but I propose hereafter to introduce a more complete series of Enactments to apply to Parish roads, and to regulate the means of raising the expense of their repairs within the more populous districts of the Colony.

4 Wm. IV, No. 12, Is an Act regulating Juries, a Copy whereof with my remarks thereon I have already had the honor to transmit by a Separate Despatch.*

Jury act.

A Private Act also passed during the last Session for renewing the incorporation of the "Bank of Australia" is likewise herewith transmitted. I am not aware that there are any alterations in the Constitution of this Banking Company, so distinguishing it from that which subsisted under the expired Act, as to require

Act for
incorporation
of bank of
Australia.

1833.
26 Nov.

Suspension of
act pending
approval.

any particular notice. But I beg to observe that, as in pursuance of the King's Instructions all private Acts are rendered inoperative until the Sanction of His Majesty has been obtained, an express clause has been inserted in the Act to this effect, it becomes of the greatest importance to the Company that such sanction be given as speedily as possible.

I have, &c.,
RICHD. BOURKE.

GOVERNOR BOURKE TO RIGHT HON. E. G. STANLEY.
(Despatch No. 90, per ship Children; acknowledged by
right-hon. E. G. Stanley, 16th May, 1834.)

27 Nov.

Memorial from
S. Wright *re*
land grant.

Sir, Government House, 27th November, 1833.

I beg leave to draw your attention to the enclosed Memorial, addressed to me by Mr. Samuel Wright, late a Captain in the 3rd Regiment of Buffs and now resident in this Colony, praying to be allowed to hold his Land on the same terms* as were granted to Military and Naval Officers at the time he retired from the service for the purpose of settling in New South Wales, that is, Free of Quit Rent.

Statement
re claims of
S. Wright.

The facts of the case are shortly these. On the 21st February, 1827, Captn. Wright, being then on the Full pay of his Regiment but having previously sent in his Papers requesting leave to sell his Commission as having served Twenty years, applied for and obtained authority to search for Land, having stated in his application to The Governor that, until he received the notification of the Sale of his Commission, he was aware that by Colonial Regulations he was not entitled to obtain a grant. On the 3rd of August, 1827, he communicated to the Colonial Secretary his Selection of Land, and applied for the Letter of possession usual in such cases, the Official notification of the Sale of his Commission having been then received. A letter of possession, dated the 21st September, 1827, such as is given to ordinary Settlers and containing no remission of Quit Rent, was transmitted to him by the Colonial Secretary on the 25th of the same Month. Captn. Wright claimed the advantage proffered to the Military and Naval Officers, retiring from the Service with a view to settle in the Colony, made by a Regulation of H.M.'s Government, dated 8th June, 1826, and made public in London not only previously to his notifying his selection, but previously to his having applied for permission to sell his Commission, though the Regulation does not seem to have been published in the Colony until the 23rd September, 1827. The late Governor having declined to allow Captn. Wright's claim without reference

* Note 60.

to the Secretary of State, the case of certain officers (tho' not specifically that of Captn. Wright) were submitted to Secretary Sir George Murray, who, in his despatch dated 30th November, 1829, declares that, unless the advantage held out by the Regulation to Military Officers was the consideration, which induced them to retire from the Service, they were not entitled to benefit by it. It being evident that Captain Wright had resolved upon quitting the service and becoming a Settler in New South Wales in entire ignorance of the Regulation, my Predecessor did not think himself authorized to allow Captn. Wright the claimed exemption from Quit Rent, and under the same impression I have also thought it right to refuse it.

1833.
27 Nov.

Statement
re claims of
S. Wright.

Mr. Wright has urged a reconsideration of his case; and, having laid his Memorial before the Executive Council, it has been recommended to me to refer the application to the Secretary of State, whom the Council hope will take a favorable consideration of the case. A Minute of Council* on this occasion is sent herewith.

Opinion of
executive
council.

I have, &c.,

RICHD. BOURKE.

[Enclosure.]

THE Memorial of Samuel Wright, late a Captain in the 3rd Regt. (or Buffs) and now a Settler in New South Wales.

Memorial of
S. Wright
claiming land
grant free of
quit rent.

To His Excellency Major General Richard Bourke, Governor in Chief of New South Wales and its Dependencies, etc., etc., etc.
Respectfully Sheweth,

That Your Memorialist was Gazetted Ensign in the 3rd Regt. (or Buffs) on 6th March, 1806, out of which Corps Your Memorialist sold his Captain's Commission on 26 December, 1826, having resolved to become a Settler in New South Wales.

That Your Memorialist having made what he considered an eligible selection of land (vizt., Four Sections on the River Hunter) apprised† the Government of this circumstance and requested that such situation might be confirmed to him as a Grant.

That Your Memorialist in reply to his communication received a letter‡ sanctioning Your Memorialist's selection and authorising him to take possession of it as a Grant.

That Your Memorialist on receiving the above named letter observed that it contained no clause of exemption from Quit Rent.

That Your Memorialist, in consequence of this omission, immediately addressed a letter to the Col. Government claiming the exemption to which Your Memorialist considered himself entitled by an order§ published in the London Gazette, Your Memorialist having served upwards of Twenty Years as a Military Officer and having retired from the service for the avowed and express purpose of becoming a settler in New South Wales.

That Your Memorialist received no reply to his letter of remonstrance for nearly eighteen months, when at length a communication

* Note 72.

† Marginal note.—26 March, 1827.

‡ Marginal note.—August, 1827.

§ Marginal note.—Sept., 1827.

1833.
27 Nov. .

Memorial of
S. Wright
claiming land
grant free of
quit rent.

was forwarded to Your Memorialist informing him* that "it had been found necessary to refer to the Secretary of State on his and other similar applications and that he should be informed of the result when an answer had been received."

That Your Memorialist was lately informed by the Colonial Secretary that the result of the reference to the Secretary of State was unfavorable to his Claim; on Your Memorialist enquiring why his name had been included in a List of retired Officers, nearly the whole of whom had been residing on their Farms for many years previous to the promulgation of the Government Order granting exemption from Quit Rents for certain Naval and Military Services, Your Memorialist was informed that it was in consequence of his having applied for permission to select a Grant of Land before the date of the Government Order alluded to.

That Your Memorialist did not Officially apply previously to the date of this Government Order will appear from the accompanying Copy of his first letter and the late Governor's Note on the back thereof, and

Your Memorialist therefore respectfully begs to observe that as his first application cannot be considered an official one, and as more particularly Your Memorialist did not select or receive possession of his Grant until after the Government Order had been received in the Colony, he with great deference submits that he is fully entitled to exemption from Quit Rent for ever.

Your Memorialist has the greater confidence that his claim will be allowed from the impossibility of its being able to afford a precedent, as no similar claim to exemption can arise, the circumstance being peculiar to the case, and having arisen entirely in the mistake in Your Memorialist being classed with retired officers not entitled to the indulgence claimed.

All which is respectfully submitted.
17 July, 1832.

[*Unsigned.*]

GOVERNOR BOURKE TO RIGHT HON. E. G. STANLEY.

(Despatch No. 91. per ship Children; acknowledged by
right hon. E. G. Stanley. 17th May, 1834.)

28 Nov.

Application
by I. S. Nind
for land grant.

Sir,

Government House, 28th November, 1833.

I have the honor to Enclose a letter addressed to Viscount Goderich by Mr. I. S. Nind, formerly employed as Colonial Assistant Surgeon in this Colony, praying to be allowed a grant of two Sections of Land under the circumstances which he has detailed. The principal facts, I have reason to believe, are correctly stated, though the cause of Mr. Nind's not having applied for Land in 1829 on his return from King Georges Sound was, as I am informed, that he then labored under mental derangement,† from which he has now recovered. Had this applicant preferred his Suit in 1826, he would have obtained Land in the proportion to his Capital of one Section or 640 Acres for each £500 up to the maximum of 4 Sections or 2,560 acres for £2,000;

* *Marginal note.*--8 Jan., 1829.

† Note 73.

but, as it is uncertain what the amount of Mr. Nind's capital might then have been, I would recommend, should you think well of acceding to his request, that one Section only be offered to him upon the terms in force on his reaching this Colony.

I have, &c.,

RICHD. BOURKE.

1833.
28 Nov.

[Enclosure.]

MR. I. S. NIND TO VISCOUNT GODERICH.

My Lord, Paterson's River, 20 Sept., 1833.

I beg leave to represent to Your Lordship that, in the Year 1825 it being my intention to emigrate to New South Wales, I applied to the then Secretary of State for the Colonies for the usual Grant of Land, which at that time was given as an inducement to Settlers to proceed to these Colonies, giving the usual references, etc.

Application
by I. S. Nind
for land grant.

That in consequence on the 16 Jany., 1825, I received a Letter signed by Mr. Hay referring me to His Excellency General Darling, which letter is now in possession of the Colonial Secretary.

Being of the Medical Profession, immediately on my arrival in Sydney I accepted an appointment as Colonial Assistant Surgeon and was within three weeks ordered to proceed with the party then going to form a Settlement* at King George's Sound.

That, understanding from several intelligent persons that it would be more advantageous for me to delay applying for my Grant till after my return from King George's Sound, as it was usual to reward the services of Officers either by additions to or choice in Selection of their Grants and as my absence would be a bar to any improvement taking place, I did not at that time make application.

That, after a residence of nearly three years at King George's Sound, on my return to Sydney in Novr., 1829, I found it necessary from family affairs to proceed immediately for England, and understanding that, if I then made application for my Grant, it would probably be not less than three Months before I could obtain it, and as the Ship in which I had taken my passage sailed in three weeks, I again deferred applying.

On my return to the Colony in the Month of February last, I was informed that such new Regulations had taken place that I should be unable to obtain my Grant, Land not being any longer at the disposal of the Governor except under very peculiar circumstances. Thinking however that my case was one meriting His Excellency's consideration, I applied to him and received for answer, "That it was not in his power to give me any Land,

* Note 73.

1833.
28 Nov.

Application
by I. S. Nind
for land grant.

but that there was no objection to my referring my case to Your Lordship."

Under these circumstances, I would beg your Lordship's favorable consideration, as otherwise my having entered the service of His Majesty's Government will have proved the occasion of my losing my Grant.

The Quantity of Land I would request Your Lordship's Sanction to my obtaining is Two Sections.

I have, &c.,

I. S. NIND.

GOVERNOR BOURKE TO RIGHT HON. E. G. STANLEY.
(Despatch No. 92, per ship Children; acknowledged by
right hon. T. Spring Rice, 22nd October, 1834.)

29 Nov.

Report re
tunnel for
water supply
of Sydney.

Sir, Government House, 29 Novr., 1833.

In accordance with my despatch of the 3rd August last, No. 59, I have now the honor to enclose you a printed Copy of the Report of the Committee of the Legislative Council on the Tunnel for conducting Water into Sydney.

I have, &c.,

RICHD. BOURKE.

[Enclosure.]

[*This report* was dated 28th August, 1833.*]

GOVERNOR BOURKE TO RIGHT HON. E. G. STANLEY.
(Despatch No. 93, per ship Children; acknowledged by
right hon. T. Spring Rice, 1st August, 1834.)

30 Nov.

Bill proposed re
administration
of justice at
Norfolk island.

Sir, Government House, 30th Novr., 1833.

I have the honor to transmit herewith for the consideration of H.M.'s Government and to be proposed in case of approval to the Legislature of Great Britain a Bill for the more effectual administration of Justice† at Norfolk Island in Capital cases, which at present fall exclusively under the cognizance of the Supreme Court of this Colony.

Reasons for
proposed bill.

The motive for desiring a Bill of this Sort to be passed into a Law is principally this. There has appeared abundant reason to suspect that Capital crimes have been committed in that Penal Settlement from a desperate determination to stake the chance of capital conviction and punishment in Sydney against the chances of escape, which the passage might afford to the accused and to the Witnesses summoned to attend the Trial. The number of the latter has usually been much augmented by the Sinister endeavor of Convicts to procure themselves to be summoned, there being hardly any possibility of detecting the imposture until the trial, and sometimes not even then, as many, who have invented or exaggerated statements to procure their

* Note 74.

† Note 75.

being summoned, will persist in them at the Trial with the greatest effrontery. To defeat such atrocious machination and with the desire of diminishing crime by depriving it of all hope of success in its principal objects, I deemed it advisable on a recent case of murder occurring in Norfolk Island to send one of the Judges* of the Supreme Court with a Crown Lawyer and Military Jury to try the Offenders at that Place, the usual Session of the Supreme Court being adjourned to Norfolk Island for the purpose. The Criminals were tried, convicted and executed, and I have no doubt that, the chance of quitting the Island by the Commission of desperate crime being thus at an end, it will be less frequently attempted.

1833.
30 Nov.

Sittings of
supreme court
at Norfolk
island.

By this arrangement however, the Colony has been subjected to the inconvenience of a delay of the Sessions of the Supreme Court in Sydney during the period in which it was held at Norfolk Island, A delay which any misfortune on the passage might have rendered of very serious consequence; and, as it must always prove very difficult to make the arrival of the Judge and Jury in the Island coincide with the time fixed by the proclamation of adjournment, any considerable delay might be yet further augmented by the necessity imposed by each variation of time of returning to Sydney and proceeding again with fresh powers.

Objections to
such sittings.

To prevent such inconveniences from interfering with a measure otherwise so desirable, I propose that the Govr. of the Colony shall be empowered to issue a Commission for the Trial of offenders at Norfolk Island, whenever occasion, and to appoint any Barrister of three years standing to be a Judge, who, with a Jury of five Military Officers, shall try such offenders as shall be brought before them, and shall have power to award capital punishment as detailed in the Bill herewith transmitted. I propose likewise that the Rules of the Court thus established shall be framed by the Legislative Council, who will no doubt render its practise as nearly similar to that of the Supreme Court as circumstances will admit.

Proposed
constitution
and practice
of court.

The expense of this Commission need not be considerable as the Barrister will require to be paid only for the days of his absence from Sydney, and the occasion for employing him will probably be rare. Since the month of February, 1832, when some Persons were tried in Sydney for Offences committed at Norfolk Island, there has occurred there no crime requiring a Capital Conviction until July last, being a period of nearly eighteen months; and it is highly probable that the certainty of such crimes being all tried on the Island will greatly diminish, if not wholly prevent their Commission.

Diminution of
capital crime on
Norfolk island.

I have, &c.,

RICHD. BOURKE.

* Note 76.

1833.
2 Dec.GOVERNOR BOURKE TO RIGHT HON. E. G. STANLEY.
(Despatch No. 94, per ship Children; acknowledged by
the earl of Aberdeen, 20th December, 1834.)

Sir, Government House, 2nd December, 1833.

Want of
demand for
treasury bills.

I have the honor to enclose the Copy of a Despatch, which I have found it necessary to address to the Secretary to the Lords Commissioners of H.M.'s Treasury, from which it will appear that there has been and is likely to continue a very deficient demand for Treasury Bills in this Colony, the effect of which on the Finances of the Chest has been hitherto averted by the payment of £30,000 at various times from the Colonial Treasury towards the Liquidation of a debt due to the Chest; but, as this debt is now nearly discharged, it becomes necessary to provide for the future wants of the Commissariat by other means.

Method
proposed
to provide
funds for
commissariat.

As one method of contributing to this object, I take the liberty of suggesting for your consideration whether it might not be advantageous to arrange with the Masters of Vessels conveying Emigrants from Great Britain to this Country at the Public charge to receive the amount of passage money payable here in Bills upon the British Treasury. By this means the whole amount of payments from the Colony for this Service would be paid in cash into the Military Chest, to the replenishing of which a Sum amounting to £10,000 or £12,000 a year might be thereby effectually secured for a few years.

I have, &c.,
RICHD. BOURKE.

[Enclosure.]

[A copy of this despatch will be found on page 267.]

 UNDER SECRETARY HAY TO GOVERNOR BOURKE. *
(Despatch per ship Numa.)

Sir, Downing Street, 3d December, 1833.

3 Dec.
Transmission
of letter for
J. Currey.

I am directed by Mr. Secretary Stanley to enclose to you the accompanying letter,* and to request that it may be delivered to James Currey, who, it is understood, holds the situation of Barrack Sergeant at Sydney. The relations of this person being very anxious to learn his fate, I am further to request that, in the event of his having quitted the Colony or of his death, you will report to me the date of his death, and what property he left behind him, or when he left the Colony and where he is supposed to be living.

Report
required.I am, &c.,
R. W. HAY.

* Marginal note on original.—No letter was enclosed.

GOVERNOR BOURKE TO RIGHT HON. E. G. STANLEY.
(Despatch No. 95, per ship Children.)

1833.
3 Dec.

Sir, Government House, 3rd December, 1833.

I have the honor to enclose for the information of the Secretary at War a List of the Appointments of Military Officers receiving Colonial Pay made since my last Return of such appointments, in conformity to a despatch of Lord Goderich, dated 7th August, 1832, No. 115.

List of military officers in colonial pay.

These appointments consist of that of Captn. Moffat of the 17 Regiment to the Police Magistracy of Port Stephens at a Salary of £182 10s. per annum, and that of Major Breton of the 4th Regiment to the Police Magistracy of Goulbourn Plains, Argyle, with a Salary of £200 per annum and an allowance of 2s. 6d. a day for forage, as he has two and may have three distant Stations to attend. Captn. Moffat is the Person, who acted as Police Magistrate at Port Stephens for some time with a Salary of £100 per annum, paid by the Australian Agricultural Company. This Salary was discontinued in the last year, and Captn. Moffat discharged the duty gratuitously, until, under the authority conveyed in your despatch of the 16th April, 1833, No. 4, I placed him in pay at a higher rate than he formerly received, as I found it necessary to require his attendance once in every fortnight at a station considerably distant from Port Stephens.

Appointment of police magistrates at Port Stephens and Goulburn plains.

The appointment of a Police Magistrate in Argyle, of which County Goulbourn Plains is the central and principal Station, has become necessary from the increased population of that part of the Colony and the number of Convict Servants spread over a great extent of Country, from the difficulty of finding a sufficient number of Persons qualified to hold a Commission of the Peace and disposed to Act gratuitously, and from the disinclination of those who have been appointed to attend the Sessions, as often as circumstances require as to hold them in places distant from their residences. I had at one time hoped to have availed myself more extensively of the services of the Colonists in the discharge of Magisterial duties, both as a measure of economy by a proportionate reduction of Stipendiaries, and as likely to encrease the weight and influence of the best informed and wealthiest Residents in the Country Districts. Experience has taught me that the circumstances of the Colony do not yet permit the general adoption of such a measure with any probability of a successful issue and that Police Magistrates must be continued as well for the Controul as for the protection of the Convict Population.

Necessity for magistrate at Goulburn plains.

1833.
3 Dec.
Authority for
appointment
of magistrates.

I take the present opportunity of acknowledging the receipt of your Despatch of the 23 May, 1833, No. 11, authorising the appointment of Police Magistrates to the number allowed by Lord Goderich on a former occasion, a permission which I have been partly obliged to anticipate in the reappointment of a Magistrate at Campbell Town, reported in my despatch of the 29th September last, and of which I have just now availed myself in the creation of the new Police Magistracy at Goulburn Plains.

I have, &c.,

RICHD. BOURKE.

[Enclosure.]

[A copy of this list is not available.]

GOVERNOR BOURKE TO RIGHT HON. E. G. STANLEY.
(Despatch No. 97, per ship Children; acknowledged by
right hon. E. G. Stanley, 18th May, 1834.)

5 Dec.

Sir,

Government House, 5th Decr., 1833.

Request by
J. Raymond
for increased
salary.

I have the honor to transmit herewith a letter addressed to yourself by Mr. Raymond, the Post Master General of the Colony, soliciting either an increase of his Salary as Post Master or a more lucrative appointment in this or some other British Colony.

Testimony
in favour of
J. Raymond.

I shall certainly do no more than justice in stating that I believe Mr. Raymond to be a very zealous and efficient officer. It must be admitted likewise in his favor that the Revenue of the Post Office is increasing, and with it the duties of the Principal Post Master. I think it also probable that the Commissioners, who proposed to diminish the Salary of that officer, were not aware of the duties to be performed or at least of their tendency to encrease so rapidly. It may be observed further that Mr. Raymond has no house allowed him, which is usually the case with the Postmaster.

Under these circumstances, it will be for His Majesty's Government to determine whether, without any disregard of due economy, an encrease of Revenue in this Department may fairly be accompanied by an encrease in the Salary of its principal Officer.

I have, &c.,

RICHD. BOURKE.

[Enclosure.]

MR. JAMES RAYMOND TO RIGHT HON. E. G. STANLEY.

Sir,

Sydney, 20 Nov., 1833.

Bringing under your notice so humble an Individual as myself will not I hope in this case be considered a presumptuous intrusion.

In the year 1825, I Emigrated to this Colony under the auspices and recommendation of the then Secty. of State, Earl Bathurst, for a situation, not as a boon, but granted in remuneration for Services and in Consideration of losses sustained during the disturbance of the previous years in the Counties of Limerick and Kerry, which will be more satisfactorily explained by reference to the Copy of a Despatch in your Office to Genl. Darling dated 11th Sept., 1825, of which I had the honor of being the Bearer.

1833.
5 Dec.
Reasons for immigration to colony.

Since then I have successfully filled the Situations of Coroner, Surveyor and Searcher of Customs, and, from May, 1829, that of principal postmaster of this Colony at a Salary of £400 pr. annum, and during this period I feel I may with confidence refer to the consideration I was held in as a Zealous and efficient civil Officer under the Govt. of Lieut. Genl. Darling, as well as to his present Excellency General Bourke's personal observation during his administration of the Affairs of this Colony in support of my present Application; I may also refer to the public estimation of my services in favour of the boon I now solicit.

Positions held by J. Raymond.

When you consider the arduous duties attendant upon the formation of an extensive Post Office Establishment and the very great responsibility and anxiety entailed in the Management of such a Department, I am sure that you, Sir, in common with the Colonists, will not consider me adequately remunerated by £400 pr. annum, and that you will not deem me unreasonable or intrusive in soliciting at your hands such an increase as you may deem fair and reasonable.

Request for increased salary as postmaster.

I will not presume to suggest any particular sum, but I would respectfully press on your notice the circumstance of the Cape of Good Hope, where, altho' the Department is not so extensive, the Salary attached to the Office at that Colony is £600 pr. Annum. I would also add that the Gentleman deputed to the Superintendance of the Same Department at V. D. Land, where I believe the revenue does not as yet meet its expenses, his Salary is considerably more than mine with an Allowance for two Houses and a postmaster immediately under him at £300 a year.

Salary of postmaster at Cape of Good Hope;

and allowances to postmaster in Tasmania.

Under these circumstances, I firmly rely upon your Justice and Liberality for such an increase as you deem adequate to my desert and suitable for the situation of Post Master General of this Colony, assured that the local Legislative Council will receive your approval with satisfaction and I think I may say unanimously vote it.

On reference to my Lord Bathurst's Despatch above alluded to, you will perceive I was led to believe I would receive Sufficient maintenance for myself and Family; how far such Maintenance

1833.
5 Dec.

has been extended to me, I will leave it to any reasonable and candid person acquainted with the Colony to decide. But, as my present Object is not to complain but rather to endeavour to Obtain for my Family that consideration which I feel I may safely rely on your Justice and Kindness to bestow, assured that, if you deem yourself withheld from granting my request, it will be on equitable grounds, and that at all events my long promised reward and faithful services will not be forgotten in dispensing the patronage of this or some other of His Majesty's Colonies.

I have, &c.,

JAMES RAYMOND.

GOVERNOR BOURKE TO RIGHT HON. E. G. STANLEY.

(Despatch No. 98, per ship Children; acknowledged by right hon. T. Spring Rice, 15th November, 1834.)

Sir, Government House, 5th December, 1833.

Request by
J. H. Plunkett
for increased
salary.

At the request of Mr. Plunkett, the Solicitor General of this Colony, I have the honor to enclose a letter addressed by that Officer to yourself, complaining of the nature and extent of the duties he is at present called upon to perform, and requesting an encrease of Salary, if he is not relieved from that portion of them which he conceives not to belong properly to his Department.

Business of
J. H. Plunkett.

I am ready to admit that the Solicitor General has more business than would fairly fall to his share under ordinary circumstances, and it was my intention to have addressed you on the subject. The infirmity of the Attorney General, to which I alluded in my confidential letter* to Lord Goderich of the 19th September, 1832, made it appear to me absolutely necessary, after several communications with the Judges Forbes and Burton, to make a Division of the Duties according to the enclosed Minute, That appearing to be the only way of carrying the Public Business through.

Division of
legal duties.

The former arrangement, alluded to and enclosed by the Solicitor General, No. 3, drawn up by the Judges, was acted upon as long as it was possible to carry on the business in that form; but the continued infirmities of the Attorney General rendered it apparent to the Judges that some new arrangement, which should bring a more efficient person into Court, was absolutely necessary.

I have found great difficulty in obtaining from the Crown Solicitor the fulfilment of these duties, which have been assigned to him under the latter arrangement, more especially as regards the preparation of Briefs for the Crown Prosecutor. I consider that no more duty has been allotted to the Crown Solicitor than

* Note 77.

properly falls to his share. You will, however, find recorded in your Office the circumstances* under which Mr. Moore first came out. He asserts as I understand that he is entitled by his agreement with Earl Bathurst to £300 a year, whether employed in the Public Service or not, a claim which may however be considered abrogated by Sir Geo. Murray's despatch, 6 June, 1830, No. 43, and by Mr. Moore's acceptance of the office of Crown Solicitor upon the terms therein set forth.

1833.
5 Dec.

Claims made by
W. H. Moore.

With respect to the Attorney and Solicitor General, I am quite sensible that some better arrangement is desirable; but, as long as the present Attorney General continues in office, I cannot advise anything more likely to prove satisfactory than the existing one; and, although it bears hard upon the Solicitor General, I cannot recommend that any further Salary should be paid to him out of the public purse. It would be fitted to charge upon the Salary of the Attorney General a remuneration to the Solicitor General for those duties, which the latter is obliged to perform on account of the infirmity of the former.

Duties of
J. Kinchela
performed by
J. H. Plunkett.

So far as regards the argument for remuneration drawn from the circumstance of the Solicitor General's whole time being occupied by his public duties, I am not aware whether it was part of the arrangement with that Gentleman that he should have time for private practise, even though he were to be entitled to occupy in that way any time which might happen to be left at his own disposal.

Problem of private
practice by
J. H. Plunkett.

I propose to continue the arrangement I have last made, until I shall have the honor of receiving your commands on the subject, the interference of His Majesty's Government with a view to some definitive arrangement being now absolutely necessary.

Request for
instructions.

If an entirely new arrangement is practicable, at this time I would suggest that the appointment of one Barrister and one Crown Solicitor would be sufficient for the discharge of all the Crown business of the Colony, Civil and Criminal, the former receiving as Attorney General £1,800 a year and acting for the Crown in all cases at the Bar, and the latter being an Attorney receiving £800 to cover all charges for Clerks and performing all those duties which usually fall upon Attornies, it being understood that it should be a part of his duty to communicate with the Government in those numerous cases, in which, though frequently not brought to trial, the local Government find it necessary to apply for the advice of the Attorney General and to prepare written abstracts of such cases for his opinion.

Proposed
re-arrangement
of legal
business.

Whilst I am on this subject, I think it right to inform you that, in Prosecutions for a breach of the Revenue Laws, the Solicitor General receives fees from the Department of Customs,

Fees paid to
J. H. Plunkett
by customs
department.

* Note 78.

1833.
5 Dec.

this being, as I am assured, in accordance with the practise of other Colonies. In such cases, he discharges the duties both of Barrister and Attorney, and the Bills of Costs paid to him by the Customs have amounted in little more than a year to £189 1s. 2d.

Crown legal
business.

In order to convey a clearer idea of the business which the Crown Lawyers transact in the Colony, I have the honor to transmit a Memorandum drawn up by Mr. Justice Burton for my information in the month of May last. You will perceive in perusing this Memorandum that Mr. Burton has proceeded upon the fact of the Attorney General Standing at this moment in the place of a grand Jury in filing information, where the latter find Bills of Indictment; as it is probable that a Grand Jury will shortly be instituted in this Country, the Attorney General will then be relieved from this duty. I have, &c.,

RICHD. BOURKE.

[Enclosure.]

MR. J. H. PLUNKETT TO RIGHT HON. E. G. STANLEY.

Sir, Solicitor General's Office, Sydney, November, 1833.

Necessity for
re-distribution
of business
amongst law
officers.

I am reluctantly compelled to call your attention to the present state of the Law Department in this Colony, in order that Some better arrangement may be made in the distribution of business Among the Law Officers of the Crown.

I have hitherto refrained from bringing the Subject under the Notice of the Secretary of State in the hope that His Excellency the Governor Might be enabled to effect Some Satisfactory arrangement without troubling the Home Authorities on a matter that might appear a proper Subject for Colonial regulation; but, as I find there is no such prospect under present circumstances, I think it right no longer to defer representing the unequal Weight of duty that is thrown on me as Solicitor General.

Employment of
J. H. Plunkett
as attorney
in civil
department.

When I first arrived in the Colony and assumed the duties of my office, I was called on to act in the *Civil Department* as an Attorney, against which I remonstrated, conceiving that, as my profession was that of a Barrister, and as there were *two* Crown Solicitors paid by the Colonial Government, *One* of those Gentlemen Should rather act in that capacity than the Solicitor General. On that occasion, I addressed a letter to His Excellency the Governor (a copy of which I have the honor to enclose No. 1). The Governor gave no written decision on this point, but intimated to me verbally that I could not have the assistance of the Crown Solicitor, And that I should therefore act as Attorney as well as Barrister in the Civil department. In obedience to this intimation I continued to do so.

In the Month of March last, His Excellency the Governor called for a report of the Several duties performed by the Attorney General, the Solicitor General and the Crown Solicitor respectively. Those officers made their reports accordingly (see Report of Solicitor General herewith enclosed *No. 2*), and they were laid before the three Judges of the Colony to Suggest arrangements therein (The Report of the Judges is herewith enclosed *No. 3*). This Report of their Honors, it will be observed, Suggested no change whatever except to allow a clerk to my office, and in consequence I have acted up to the present day as Attorney as well as Barrister in all the civil business of the Crown. I will not encumber this letter by repeating my objections to act in the capacity of an Attorney as they are fully Stated in the accompanying documents *Nos. 1 and 2*.

1833.
5 Dec.

Reports on duties of attorney and solicitor-general.

Previous to the last Criminal Sessions, which commenced on the first of August last, His Excellency the Governor thought it necessary that I should relieve the Attorney General from that part of his duty which required his presence in court; and, having conveyed to me his desire to that effect, I attended in Court for the Attorney General every day during the entire of the Criminal Sessions, which lasted without intermission from the 1st of August to the 5th of September. I conducted during that time *Ninety one* cases, and of that number there were 64 Convictions, of which there were 26 capital convictions; and, notwithstanding their heavy and extraneous duty, not the least assistance was afforded to me in my own peculiar business, *Viz.*, The Civil department, by either the Attorney General or the *Crown Solicitor*, although there was much Civil business to be transacted while the criminal court was Sitting; And, when it was ended, the civil term Commenced almost immediately.

Duties performed by J. H. Plunkett in criminal court for J. Kinchela.

Trials conducted.

The Governor however, Seeing the unreasonableness of requiring me to perform double duty, has caused directions to be given to the Atty. General and Crown Solicitor to relieve me from the mere office duties; but, up to this hour, Neither of those Gentlemen relieved me from a Single duty of my office.

Relief ordered in office duties.

The Court business of the Criminal Sessions has never hitherto been Conducted by the Solicitor General (except when the Attorney General was as a member of the Legislative Council necessarily absent) nor has it been considered a part of his duty, as will appear by a Minute of General Darling (Governor) in 1828 (Herewith enclosed *No. 4*). I have therefore Solicited the Governor to excuse me from this the most arduous and responsible part of the Attorney General's duties, that I might be

Request for relief from duties in criminal court.

1833.
5 Dec.

Duties to be
performed by
J. H. Plunkett.

confined to the department of the Solicitor General alone; but His Excellency has declined to do so, conceiving the present arrangement to be the best under existing Circumstances.

As I am anxious to render my assistance in forwarding the public business in whatever Manner the Governor thinks best, I will continue to conduct the criminal business according to his wishes, untill I shall have the honor to receive your directions in the matter. And, as the present arrangement cannot be permanent, Notwithstanding the heavy labor that it entails on me personally, I think it better to perform all the duties of Solicitor General also (which by my oath of office I am Sworn to perform in person) than to hand them over "pro tempore" to the Attorney General or Crown Solicitor, as Such a transfer would only lead to the greatest irregularity and confusion in the papers of my office as well as the general transaction of its business. I will therefore only call on the Attorney General to perform any of my peculiar duty when it becomes *impossible* that I can myself attend to all.

Request for
remuneration
for extra duties.

For this additional and onerous duty, I trust you will not consider it unreasonable that I should demand *remuneration*. Besides the effect that such exhausting and continued labor must naturally in this warm climate produce on my constitution, it causes a large and direct pecuniary loss, in as much as it has already prevented and will continue to prevent me from taking *any private practice as a Barrister*, for the Criminal Court sits for upwards of four months in the year. And I beg leave to remind you that the Salary I receive, as Solicitor General, is only £800 a Year. I think the difference between that and £1,200 which is the Salary of the Atty. General would be but fair remuneration.

I regret much being under the necessity of Making this representation, but the importance of the Subject, as it respects the administration of Justice in this Colony, will I hope plead my excuse.

I have, &c.,

JOHN H. PLUNKETT, Sol. Genl.

[Sub-enclosure No. 1.]

MR. J. H. PLUNKETT TO GOVERNOR BOURKE.

Solicitor General's Office, July, 1832.

May it please your Excellency,

Request for
division of
duties amongst
law officers.

Having now commenced to discharge the duties of my Office as Solicitor General in this Colony, and as I find those duties so very imperfectly marked out at present, I beg leave to claim your attention to the subject in order that some more precise arrangement may be made among the Law Officers of the Crown. I mean

the Attorney General, the Solicitor General, and the Crown Solicitor. My Predecessors in Office have left no records or public documents (that I am aware of) from which I can collect any information as to the distribution of public business hitherto among those Officers respectively. I find that a Correspondence took place in 1828 between the Attorney and Solicitor General and the Governor of that time upon this subject, And in consequence Lieutenant General Darling (then Governor) intimated to those Gentlemen what he conceived to be their respective duties; a copy of which document I enclose for the perusal of your Excellency. This document makes the respective duties of the Attorney and Solicitor General pretty clear and satisfactory as far as it goes; but there is no reference made by it to the Crown Solicitor, an Officer whose duties, I respectfully submit to your Excellency, are as important to be ascertained as those of the Attorney or Solicitor General, because the business of the Crown Solicitor must necessarily be so interwoven with theirs, that it is impossible to define the duties of one without knowing the business of the three.

My friend the Attorney General considers the Crown Solicitor to be exclusively an appendage to his Office in the Criminal department. I am of a contrary opinion. I claim the Assistance of the Crown Solicitor in that branch of the Civil department which is universally performed by an Attorney in England; and in doing so I respectfully assure your Excellency that this claim is dictated more with a view to the public business than any personal convenience, because I think it obvious that a Gentleman, who has served his apprenticeship to an Attorney, should manage that particular branch of Law business better than one, who never served such Apprenticeship and who always was taught to consider such a line of duty as incompatible with the appropriate province of a Barrister. However I shall cheerfully abide by any direction your Excellency may please to give in this matter; but I feel that in justice to myself, as well as for the better performance of the Law business of the Crown, I should call on your Excellency to draw the line for each Law Officer.

I would respectfully suggest that, if your Excellency should feel any difficulty in making a Rule in this matter, that the assistance of the Learned Judges would not only be valuable but from their peculiar competency would be satisfactory to all parties.

I have, &c.,

JOHN H. PLUNKETT, Sol. General.

[Sub-enclosure No. 2.]

MR. J. H. PLUNKETT TO COLONIAL SECRETARY MACLEAY.

Sir, Solicitor General's Office, 6th April, 1833.

I have the honor to acknowledge the receipt of your letter No. 33/56 with reference to the several duties required to be performed by the Law Officers of the Crown upon the distribution of which representations have been made to the Governor and by direction of His Excellency, requesting that I would report to you for his information with as much distinctness and precision as possible the duties expected of me individually and the business which has actually been transacted in my office the last six months.

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Division of
legal duties by
R. Darling.

Claim for
assistance of
crown solicitor
as attorney
in civil
department.

Report by
J. H. Plunkett
on duties of
solicitor-
general and
business
transacted.

1833.
5 Dec.
Duties of
solicitor-
general.

I beg leave to refer you to a minute of the late Governor, General Darling, pointing out the respective duties of the Attorney and Solicitor General, dated August 25th, 1828, from which the following is an Extract:—

The duty of the Solicitor General.

1. To conduct All civil prosecutions and other business under that head.

2. To prepare Bonds, Contracts, etc., etc.

3. To Conduct All proceedings in the Ecclesiastical and Admiralty Courts.

4. To perform such other matters and things as shall be required by the Governor.

I will follow this fourfold division as it has been hitherto the only guide which the Attorney and Solicitor General had as to their respective duties.

1. This head embraces every proceeding, in which the Crown is concerned, that does not belong to the Criminal Court. I will merely enumerate here the different kinds of Civil Proceedings that come under this head. And beg to refer you to Schedule A herewith sent for the details of Practice.

1. Informations of Intension.

2. Informations of Debt for Penalties either on Bond or under Penal Statute.

3. Equity Informations.

4. Proceedings by "Scire Facias" on Judgements.

5. Proceedings by Writ of Extent.

6. Proceedings by Common Action for the recovery of simple Contract debts.

The Drawings of all Pleadings in those different Proceedings and conducting all law arguments that may arise upon them, Making any motion or application that becomes necessary either to the Supreme Court or a Judge in Chambers during the progress of any of the foregoing Proceedings, and attending as Counsel at the Trial of the Issues. All these are peculiarly the Business of the Solicitor General.

Correspondence under same Head.

1. Advising either jointly with the Attorney General or alone on all matters submitted for an opinion where the Civil interests of the Crown are directly or remotely concerned.

2. Correspondence with the heads of the different Departments to obtain explanation where there is Ambiguity in any case submitted for an Opinion or to obtain evidence either oral or documentary to be produced on Trial.

Mem.—I have always endeavoured to save the delay that should necessarily attend this correspondence by adopting the plan of communicating personally in every case, in which writing can be dispensed with. I find that it saves much time and trouble to other Departments and is more satisfactory to myself.

3. Correspondence with Witnesses not connected with the Government.

4. Correspondence with Defendants before proceedings are instituted and afterwards in the course of the suit as may be necessary.

5. Advising when it becomes necessary for the information of the Governor in all stages of the different Proceedings enumerated.

2nd Head.

Drafting and preparing Forms of all Deeds, viz., Grants, Leases, Surrenders, Assignments, Mortgages, Bonds to observe certain conditions upon which possession of Crown lands is permitted, And Bonds for the public Contracts, Execution of Warrants of Attorney to Confess Judgment, etc., etc., etc.

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Duties of
solicitor-
general.

3rd Head.

There has been no proceeding instituted in the Ecclesiastical Court within the last six months. There are three Cases now pending in the Admiralty Court, and some cases have been compromised, the parties having offered to enter into Bonds with Sureties to abide the decision of the Home Authorities.

4th Head.

This embraces many duties which I am frequently called on to perform and which are not included in 1, 2, or 3, Viz.:

1. To attend the Criminal Court in any important case when called on by the Attorney General.

2. To conduct the entire of the Criminal business during the Criminal Sessions in the absence of the Attorney-General, occasioned by illness or any other good cause, And when the sittings of the Criminal Court and the Legislative Council concur, the Attorney General being bound to attend as a Member of Council. In consequence of the sittings of the Legislative Council, I attended a very heavy Session every day during Five weeks from the 1st of August last to the 7th or 8th of September.

3. When the Attorney General is absent or thus engaged, I am also called on to advise in Criminal Cases singly, and in all criminal cases of difficulty jointly with the Attorney General.

4. I am called on by the Custom House Officers to attend at the Police Office where any case of difficulty is to be conducted there, or where the parties concerned are attended by Counsel.

5. I have been also required to attend the Police Office in Cases growing out of injuries done to the public Water Tunnel of Sydney.

6. In all cases of emergency requiring dispatch, I am personally consulted by the Heads of the different departments, and in a variety of matters about which it may be unnecessary to trouble the Colonial Secretary. My Consultations in this way with the Collector of Internal Revenue more particularly are many and frequent.

These are all the duties which I have actually performed within the last six months, and I venture to say that, if I were to receive for their performance the ordinary fees and costs which Professional men are entitled to, that, instead of £400 which is the Amount of my half year's salary, they would amount at the lowest calculation to £4,000.

Monetary value
of work
performed.

In order to avoid encumbering this letter too much with practical detail, I have annexed a Schedule of the Office duties, which will inform His Excellency generally of the *Minutiæ* of practice in every suit as it is nearly similar in the different kinds enumerated.

Transmission
of schedule.

When I entered on the duties of my office in the month of June last, and found to my great surprise that neither of the two Crown Solicitors acted as such or at all interfered in the civil Business of the Crown, and that the whole of it was thrown upon me as Solicitor General, it will be in your recollection that I respectfully submitted to his Excellency that it was not a part of my official duty to act in the capacity of an Attorney, but that one of the

Objections by
J. H. Plunkett
to acting as
attorney.

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Objections by
J. H. Plunkett
to acting as
attorney.

Two Crown Solicitors should perform that branch of the civil Business, which is well understood to belong to the province of a Barrister. As no written decision has been since made by His Excellency the Governor. I take this opportunity again to urge my objection to act as an Attorney on the following grounds:—

1. Because I am a *Barrister* by profession.
2. Because I never served an apprenticeship to an Attorney, and I am not therefore practically acquainted with the duties of that profession.

3. Because the Solicitor Generalship of this Colony was offered for my acceptance by the Secretary of State, he having a full knowledge that I was a Barrister and not an Attorney, and it was never intimated to me that I was to act otherwise than as a Barrister until I was sworn into Office after my arrival.

4. Because the circumstance of there being two Crown Solicitors in the Colony regularly bred to that profession. Denominated and paid as Crown Solicitors by the Government, shews that it must have been the intention of the Home Government that the Attorney and the Solicitor General of this Colony should be required to act only as Barristers in the same way as those officers do in England and Ireland.

5. Because the duties of the two Professions are incompatible with each other in as much as one requires such constant and regular attention to the details and minutiae of office practice, such as Engrossing and filing pleadings, obtaining writs, serving Notices, subpoenas, etc., that it entirely prevents the undisturbed reflection, study and constant reference to Books, which are necessary to the proper discharge of a Barrister's duties, for it is acknowledged by men the most eminent in that profession "that a Lawyer is but an index to his books."

I anxiously hope that his Excellency will make some better distribution of the Crown business between the Attorney and Solicitor General and the Crown Solicitors, for those last mentioned Officers were not mentioned in the minute of General Darling to which I already referred, and I trust that in whatever arrangements may be made the division of the two Professions will be kept in view.

Rule for
division of legal
profession.

There is a Rule* published by the Judges of the Supreme Court to confine Barristers and Attorneys to their respective professions, which only awaits (as I am informed) the approbation of his Majesty to be put in force. If that Rule were acted on, it would prevent me from acting as an attorney, and it would impose on a Solicitor that duty, and then all I asked for in my letter to His Excellency the Governor before mentioned and all I now ask for would be accomplished; that is to be confined to my own profession.

Difference of
opinions *re*
duties of clerks
of supreme
court.

There is a point of Practice concerning which I have often had occasion to differ with Mr. Gurner, the Chief Clerk of the Supreme Court (than whom I believe there is no more efficient Officer), and, as I think this a proper opportunity to have it determined, it being intimately connected with the business transacted in this Office during the last six Months. It is this:—Whether the Clerks of the Supreme Court should not prepare and issue *Writs* on being required by a *præcipe* according to the practice of the Courts in the Mother Country. 'Tis true there are particular officers. Consitors, Felams, Clerks of Writ, etc., etc., etc., to make up those writs at home; but I contend that, if it be not the duty of the present Clerks of the Court, that one ought to be appointed for the purpose. It is bad enough to be called on to act as an Attorney, but it is too

* Note 79.

unreasonable to expect that I should also do that business, which should be done by an officer of the Court; the same objection exists to the formal entry of the Pleadings on a Roll called the Judgment Roll. Altho' I have discharged this unpleasant and unreasonable duty for the protection of the Crown hitherto, I protest against doing so in future and earnestly request it may be enquired into.

In making the foregoing objections, 1st to act as an Attorney, and 2dly to do what is the business of the Chief Clerk or some other officer belonging to the Supreme Court, I do not want to get rid of my fair proportion of duty. I only want to be confined to my proper Sphere. I am ready and willing to abide by whatever arrangements the Governor and the Judges may please to make; but, at the same time, I may be permitted to say that I can never be satisfied if any but the professional duties of a Barrister be imposed on me.

I have, &c..

JOHN H. PLUNKETT, Sol. Gen.

Schedule A.—Order of Office Practice.

After receiving Instructions to sue in all civil cases, it is usual to write to the parties apprising them that Proceedings are about to be instituted.

Then the summons is filled up and taken to the Officer of the Court to be signed and sealed.

A Copy to be then served on the Defendant.

The Information is then to be drafted in the proper and legal Form. After Perusal and signature of the Attorney General, it is then to be engrossed and filed.

Notice thereof to Defendant or his Attorney.

After appearance of Defendant.

Searches for Plea copy obtained thereof.

Replication drawn, filed, etc., and so on, if the Pleadings be longer.

If Demurrer be taken, Paper Books of Pleadings to be drawn and well copied for each of the Judges, 3 copies to be left at their Respective Houses.

Conducting the Argument in Court.

When Issue is joined, in almost every Crown Case it is usual to have a Special Jury. Application must be made therefore the first day of Term.

The case being set down for Trial, Notice given to Defendant's Attorney.

Appointment obtained from the Chief Clerk to attend the Sheriff to draw the Jury.

Notice served on opposite Attorney. After the names are drawn and a Copy obtained from the Sheriff, there is another day appointed to strike the Jury.

Subpoenas filled and the seal of the Court and the signature obtained. To be then served on the Witnesses. Fees of Court to be paid. Witnesses also to be paid.

Juries to be paid. And Receipts signed and witnessed must be procured for any Item to satisfy the Auditor General in accounting for same.

In the Course of every Civil Proceeding, there is a variety of Office Proceedings that take up a vast deal of time, and would be tedious to detail such as motions, of course Notices, Amendments on both sides, Consents, Getting necessary Affidavits drawn and sworn, And every form of each kind requires copying, entering, etc.

The Judgment Roll to be drafted and then engrossed in Parchment of a particular length and breadth and quality before it can be filed. When filed and Judgment entered up, The Writs of Execution are issued and delivered to the Sheriff.

Equity Informations to obtain.

Injunction and Abate Nuisance.

Engrossed on Parchment and filed. Order for Injunction taken out and served. Then the Writ drawn, engrossed and a copy served.

I have attended on Two several occasions in the Court of Requests to argue a point, which concerned the Jurisdiction of that Court to entertain Cases for the recovery of certain Crown Rents, they having been dismissed by the Commissioner. I obtained a Rule Nisi for a Mandamus and in the last Term had the same confirmed.

Letters written to the Colonial Secretary in reply—Single, 54; Jointly with the Att. Genl., 39—Total 93. Ditto to Collector of Internal Revenue, 9; Commissariat Department, 7; Surveyor General, 6; Post Master, 6; Officers of Customs, 24; Mineral Surveyor, 2; Colonial Architect, 4; Auditor General, 2; To different individuals on Public Business, 23—Total number Answered, 171. <

Several Forms of Deeds of Grant. Ditto Leases under present Regulations; Forms of Deeds of Surrender; Bonds for Public Contracts prepared, 36; Bonds to obtain certain conditions as to the occupancy of Crown Land, 4; Warrants of Attorney executed in my Office, 57.

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Entry of
pleadings on
Judgment roll.

Reasons
for protest.

Schedule of
office duties
of solicitor-
general.

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Schedule of
office duties
of solicitor-
general.

Proceedings on Extent.—Order of Practice.

After receiving Instructions and ascertaining the circumstances of Defendant, The Affidavit of *Danger* is drafted in the proper and legal form; and, when it is perused by the person to swear to it, It is then engrossed and taken to be sworn before the Officer of the Court.

A Motion is then made before a Judge in Chambers to grant *Trial* for a Writ of Extent to issue, Grounded on the Affidavit.

When the Trial is obtained, the proper form of Writ of Extent according to the circumstances is drafted. It is then engrossed on Parchment before the Seal of the Court can be Appended, and is taken for that purpose to the Officer of the Court.

A Commission is then required, the form of which is drafted, engrossed and taken to the Officer for Signature. Then served on Commissioners, and the Sheriff is required to summon a Jury.

Attendance before the Jury.

Drafting Inquisition on the Commission to find the Debt and engrossing the same on Parchment.

When the Debt is found and thus recorded by the return of the Inquisition or Commission, The second *Writ of Extent* is to be issued. It is then necessary to draft and engross it in the same way as the first Writ.

The Second Jury summoned to find the Property of Defendant.

Attending the Jury on said occasion.

Drafting the proper form of Inquisition, finding the property, Engrossing it on Parchment.

After the return of the Sheriff, Then either a Writ of "*Scire Facias*," "*Venditione Exponas*" or Extent against Debtors *Penavalle* is issued according to the Circumstances.

If the Inquisition is traversed, the Pleadings become very difficult and complicated, it being a Proceeding not favored by the Courts. Within the last six months, I performed on three different occasions those duties without any assistance, none of which belong to a Barrister but the Perusal of the Several forms of drafting, etc., Amending the Pleadings.

[Sub-enclosure No. 3.]

THE JUDGES TO COLONIAL SECRETARY-MACLEAY.

Sir,

Supreme Court Office, 14th May, 1833.

We have the honor to acknowledge the receipt of your letter of the 11th of April, 1833, enclosing the letters of the Attorney General, the Solicitor General and the Crown Solicitor respectively, upon the Subject of the distribution of the duties required to be performed in the offices of those Gentlemen, and also your letter of the 3rd of April, 1833, enclosing the reply of the Attorney General to the letter of the Crown Solicitor on the same Subject. It being the wish of His Excellency the Governor to be informed of our opinion as to what portion of the Law business of the Colony should be considered the peculiar duty of each of the Crown Law officers, according to our Judgment and the practice of England in Such cases, We have taken the matters referred to us into our consideration.

From the terms of your letter, in which the above question is Submitted for our Consideration, it appears to embrace the practice of England as well as the practice of the Colony; And, as considerable difference prevails between them. We think it will be convenient to state first, What in our Opinion will be the most advantageous distribution of the law business of the Crown among the several officers, as they actually exist: And Secondly, That We Should Consider a more Convenient distribution of Such business. And More conformable to the practice in England in the event of any change being prospectively Contemplated by the Government.

1. Upon the first point, We certainly find great difficulty in laying down What Shall be the peculiar duties of each of the Crown Law Officers in this Colony. To do so might be productive of great inconvenience, for, in the enumeration of them, We might leave unprovided for Some Necessary duty which would be required to be

Report by
judges *re*
duties of
attorney and
solicitor-
general and
crown solicitor.

performed by Some one of those Gentlemen. Upon a review, however, of the difficulties which appear to have arisen as to the distribution of business between those Gentlemen, And referring to the letter of The Attorney General, dated 22nd March, 1833. We find that officer, after making a General Statement of his duties, requiring the Crown Solicitor to prepare Briefs, incorporating a Copy of the depositions taken before the Magistrate in each particular Criminal Case intended for prosecution, And Complaining that Mr. Moore had objected to preparing Such Briefs except in certain cases, We are of opinion that the Crown Solicitor should not be required to prepare Briefs except in Special cases, because all Depositions originally taken in any Criminal Case, intended for prosecution, being transmitted by the Magistrates in the first instance to the Attorney General in order to enable him to exercise a Most important discretion, Viz., Whether he will prosecute or not, in what form, in what court, and for which degree of offence, must put the prosecuting officer fully in possession of all the important points in the case, and save the necessity of any Brief being prepared for his instructions, or more than a Copy of the depositions except in the case of more than One Counsel being employed on the part of the Crown or other Special occasion. We are not aware of any other point in the Attorney General's letter of any Such Specific nature as would enable us to found any practical recommendation upon it.

Referring to the letter of the Solicitor General, dated the 3rd of April, 1833, We find that he objects to the performance of those duties which belong rather to the Office of an Attorney than of a Barrister. And it is indisputable that the duties, he So objects to, are not performed by the Solicitor General in England And are not the proper business of a Barrister. But, if his Office were relieved from all Such duties And were confined to what would professionally belong to a Barrister, So little would be left to be done by the Solicitor General that The Attorney General, Without much addition to his duties, Might easily perform the whole of what is expected from an Attorney and Solicitor General in England. And a consequent accumulation of business would be cast upon the Crown Solicitor and render additional assistance necessary to that Officer. Referring however to the distribution of business in the Department of the Law Officers of the Crown as made by General Darling on the 25th of August, 1828, it does appear to us that the duties now performed by the Solicitor General were contemplated in that arrangement and formed the Necessary duties of the Solicitor General some years before Mr. Plunkett's appointment to that office. We think, however, that, as a consequence of this arrangement, upon the increase in the Solicitor General's branch of the Crown business, that he Should be provided with a clerk to perform all those acts of which he chiefly Complains, And which are more properly speaking of a mere clerical character.

As the provisions of the New South Wales Act (9 Geo. 4, C. 83), regulating the prosecution of all offences of a Superior degree, have created a Great amount of business and a variety of duties in the Attorney General's Office, we think the Crown Solicitor should be continued as hitherto as an assistant to the Attorney General in all the branches of his business, but more especially in that part of it which relates to the preparing and conducting Criminal proceedings. We take this Opportunity of Suggesting that, in the performance of those duties which Mr. Moore States as hitherto

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Report by
judges *re*
duties of
attorney and
solicitor-
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done by himself, there should not be omitted that important part of his duty as Crown Solicitor, which Consists in producing before the Court the Criminal cases fully prepared for trial, and in Securing and ascertaining beforehand the presence of the necessary Witnesses. In the distribution of the business of the Attorney General's department, a Natural division Seems to have been adopted by the Government, namely into Criminal and Civil business; but it is Guarded by a regulation that the Officers are Severally to be called upon to perform any duties in aid of each other. In the Spirit of that recommendation, We are of opinion that much remains to be done by the officers themselves in making these minor arrangements which may tend equally to the public benefit and their own private convenience.

2. On the Second point, We are of opinion that it will be attended with many advantages to assimilate the practice of the Colony to that of the parent State by placing under the Attorney General One or more Crown Solicitors as may be found necessary to conduct that part of the business of the Crown, which properly belongs to the office of an Attorney, and leaving the Attorney General as the head of the department at leisure to attend to the higher duties of his Office And to afford that professional aid and advice to the Crown which properly belongs to the office of the Barrister or advocate.

We have, &c.,

FRANCIS FORBES, C.J.
JAMES DOWLING, J.
W. W. BURTON, J.

[Sub-enclosure No. 4.]

[*This was a copy of Governor Darling's minute, dated 25th August, 1828; see page 374, volume XIV.*]

GOVERNOR BOURKE TO RIGHT HON. E. G. STANLEY.

(Despatch No. 99, per ship Children; acknowledged by right hon. T. Spring Rice, 24th June, 1834.)

Sir, Government House, 5th December, 1833.

At the request of the Colonial Treasurer Mr. Riddell, I have the honor to transmit you a Memorial from his Clerk, Mr. John Wallace, praying that the sum of £26 per annum, added to his Salary under the authority contained in the Secretary of State's despatch of the 24th October, 1831, in consideration of the accounts of the Church and School Corporation being kept in his office, may be continued, notwithstanding the dissolution of that Body since his duties continue to be as great and even greater under the new arrangements.

As I am thoroughly convinced that the statement in the Memorial is correct as to the extent of Mr. Wallace's duties, and having likewise full reason to be satisfied with the manner in which they are performed, I feel myself in Justice bound to recommend his application to your favorable consideration.

I have, &c.,

RICHD. BOURKE.

Memorial from
J. Wallace *re*
his salary.

Recommend-
ation of
application.

[Enclosure No. 1.]

1833.
5 Dec.

MR. C. D. RIDDELL TO COLONIAL SECRETARY MACLEAY.

Sir, Colonial Treasury, Sydney, 13 November, 1833.

In forwarding the Memorial of my Clerk, Mr. John Wallace, to His Excellency the Governor, I take the liberty of adding my testimony to the truth of all that it contains and to the worth of the Memorialist.

Testimony
in favour of
J. Wallace.

I have repeatedly had occasion to write on the subject of the meritorious services of Mr. Wallace; on the present occasion, I can only add that, since the great addition to his labors occasioned by the new arrangements which have taken place with regard to the Church and School Establishments, his attention and assiduity have kept pace with his accumulated duties. I have, &c.,

C. D. RIDDELL, C.T.

[Enclosure No. 2.]

MEMORIAL of John Wallace, Chief Clerk in the Office of the Colonial Treasurer.

Memorial of
J. Wallace re
his salary.

To His Excellency Major General Bourke, Governor of New South Wales.

MAY it please Your Excellency.

The Colonial Treasurer has intimated to Your Memorialist that, in pursuance of the directions of the Secretary of State, the additional Salary of Twenty five pounds per annum, authorised by His Lordship's Despatch of the 24 October, 1831, for the Clerk in his department, should no longer be issued as the Cash Accounts of the Church and School Corporation is no longer kept in his Office.

In consequence Your Memorialist takes the liberty of stating that, if the withdrawing of part of his Salary is grounded upon the above circumstance, he need hardly remind Your Excellency that, so far from the Cash Accounts of the Church and School Corporation being no longer kept in the Treasury, They are now wholly kept in that office and the additional labor is very considerable.

If however the Plea is that the Corporation no longer exists, In answer he would humbly state that it was in consequence of the new arrangements, entered into with the Commissioners appointed to transact the Business of the Corporation and not with the Corporation, that additional Salary was allowed him, Mr. Riddell having ceased to be Treasurer to the Corporation and having been appointed Treasurer to the Clergy and School Fund.

Thus the Cash Accounts of the Corporation had ceased to be kept in the Treasury previous to the 1st January, 1831, from which date he drew his additional Salary.

Your Memorialist hopes to be allowed however to refer to the letter of the Colonial Treasurer, addressed to His Excellency the Governor, dated 24 March, 1831, upon receipt of which General Darling was pleased to allow him an additional Salary, and he believes conclude that the Governor in granting it has regard as much to the nature and responsibility of the ordinary duties of the Clerk of the Treasury as to the small increase of them specified in that letter.

Your Memorialist begs to state that, according to the Schedule of the Fixed Establishment of the Colony approved 1st April, 1827, the salary of the Chief Clerk of the Treasury is fixed at £300 a year,

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Memorial of
J. Wallace
re his salary.

to increase at the rate of £20 per annum until it should amount to £360. This arrangement was confirmed by Earl Bathurst.

Your Memorialist was then second Clerk in the Treasury, a situation which he accepted with the view of succeeding to the more lucrative one of Chief Clerk. To the situation he has indeed succeeded; but, till the 1st January, 1831, his Salary was only £225, the Amount to which he is informed he is again to be reduced.

By the letter of the Colonial Secretary, dated 26 March, 1828, No. 32, he was given to understand without any reference to previous arrangements that Mr. Harrison's resignation, being accepted, he would receive a Salary of £200. This Letter also states the great decrease of business which would take place in the Treasury in consequence of the Collection of Internal Revenue received being withdrawn.

Your Memorialist will not deny that at first there was a considerable decrease of labor; but, of late, he confidently affirms that there has been a very general increase of Official labor to him.

In the first place, the payments were ordered to be made Monthly in lieu of Quarterly; this took place from 1st Sept., 1830. Within the last year, many sums, which were formerly paid by the Commissariat, are now paid in the Treasury, so that the number of Vouchers in one branch of the Department alone, being the Unfixed Contingencies, has increased threefold and upwards.

2ndly. The Business of the Savings Bank is much more than that of the Corporation.

3rdly. Part of the Collections, formerly paid to the Collector of Internal Revenue, is now paid to the Colonial Treasurer half monthly; And finally he would add the great addition to the Fixed Establishment and Fixed Contingent charges of the Colony, which has lately taken place in consequence of the change in the arrangements of the Clergy and Schools.

Under all these circumstances, Your Memorialist confidently appeals to Your Excellency, In the first place that, according to the Despatch of the Secretary of State, there is no ground for a reduction of his Salary; And Secondly that upon general grounds he is entitled to Rank as a First or chief Clerk.

JOHN WALLACE.

GOVERNOR BOURKE TO RIGHT HON. E. G. STANLEY.

(Despatch No. 100, per ship Children; acknowledged by right hon. T. Spring Rice, 16th November, 1834.)

Sir, Government House, 5th December, 1833.

I have the honor to enclose herewith, at the request of the writer, a letter addressed to yourself by Ernest Augustus Slade, Esqr., soliciting at your hands the appointment of Barrack Master in this Colony.

The appointment of Barrack Master will not be open unless Mr. Wilson, the present Barrack Master, be confirmed in the appointment of first Police Magistrate, which confirmation cannot be effected unless His Majesty's Government make arrangements for the retirement of Captn. Rossi, the present head of the Police, who has made his proposals for that purpose. You will

Request by
E. A. Slade for
appointment
as barrack-
master.

have already been made acquainted by the Despatch,* which I had the honor to address to you on this subject, that Mr. Wilson is at present acting provisionally for Captn. Rossi, pending his leave of absence and until further instructions from His Majesty's Government.

1833.
5 Dec.

With regard to the appointment of Superintendent of Hyde Park Barracks, to which Mr. Slade alludes in the latter part of his letter, I have reason to believe that it may be shortly done away with. In consequence of the abandonment of the practise of employing large bodies of Convicts in Government Service, the number resident in Hyde Park is much diminished, and I anticipate that, by uniting the Offices of Superintendent and Storekeeper in that Establishment, the expense of the first of these appointments may be saved. This however will be no saving to the Public as the appointment of 3rd Police Magistrate, which is now held by Mr. Slade in conjunction with that of Superintend. of Hyde Park Barracks, will require to be augmented in Salary to the full amount (of £150) of the latter situation.

Proposed abolition of office of superintendent of Hyde park barracks.

I have, &c.,

RICHD. BOURKE.

[Enclosure.]

[A copy of this letter is not available.]

GOVERNOR BOURKE TO RIGHT HON. E. G. STANLEY.

(Despatch No. 101, per ship Children; acknowledged by right hon. E. G. Stanley, 23rd May, 1834.)

Sir,

Government House, 6th December, 1833.

6 Dec.

I have the honor to acknowledge the receipt of your Despatch, dated the 26th July last, No. 29, informing me that, as the funds appropriated by this Colony to the Emigration of Married Mechanics and Single females from Great Britain for the years 1832 and 1833, amounting to £20,000, were then nearly exhausted and would be wholly so by the time of the arrival of the Emigrants, to whom assistance had been promised and afforded, it had been determined by His Majesty's Government to send out no more of those persons until further information had been obtained from hence, referring also to a letter from Mr. Hay of the 10th of March last, requiring certain returns bearing upon the same subject.

Despatches acknowledged.

I have now the honor to forward the following returns, vizt.:—
A return of Free Persons, who have arrived in New South Wales from 1st Jan., 1832, to 30th November, 1833, assisted by advances made by Government. A.

Transmission of returns of immigrants.

* Note 80.

1833.
6 Dec.

Transmission
of returns of
immigrants.

A return of Free Females, who have arrived in New South Wales during the same period, aided by Bounties paid by Government. B.

A return of Free Females, who have arrived in New South Wales during the foregoing periods, distinguishing those who have received assistance from those to whom no advance has been made or bounty paid. C.

The Quarterly returns of Territorial Revenue will be sent in the beginning of the next year.

Amount
available for
purposes of
immigration.

The following statement will enable you to judge of the amount now applicable to the purpose of Emigration:—

	£	s.	d.
Amount of Territorial Revenue received into the Colonial Treasury from the 1st Jany. to 30th Novr., 1833, including arrears of former years	23,492	18	7
Amount paid on account of Emigration to 30th Novr., 1833	13,901	6	9
Amount remaining in Treasury on 31st Novr., 1833, applicable to the purposes of Emigration	£9,591	11	10

You will perceive by the foregoing statement that the sum of £10,000 per annum, which I stated in former communications might be reckoned upon as a fund from whence to discharge the expences of Emigration, has not yet been expended in the last or the present year. Probably, however, arrangements have already been made in England for sending out the number of persons, which will absorb the balance now remaining.

Estimates
of probable
amounts for
future years.

In the ensuing year, from £15,000 to £18,000 chiefly derivable from payments for land purchased under the administrations of Sir Thomas Brisbane and Governor Darling may safely be calculated upon. The income of the Territorial Revenue in future years will in a great degree depend upon the collection of Quit Rents, a measure which I apprehend will be attended with considerable difficulty, and upon the sales of vacant Crown lauds of the extent of which I can form no estimate. The Collector of Internal Revenue, with whom I have communicated, estimates the probable amount much higher than I would venture to state it.

Possible
disappointment
re type of
immigrants.

Having in the preceding Paragraphs disposed of what relates to the financial arrangements connected with the Emigration of persons from Great Britain to these Colonies, I now proceed to notice the other matters referred to in your despatch. You express a fear that in many cases the Colony may be disappointed in the character of the persons sent out, from the difficulty which is felt by His Majesty's Government ascertaining with the desirable degree of certainty the fitness of every

applicant for assistance. There have been undoubtedly several such cases of disappointment especially among the discharged pensioners, whose unfitness for becoming Emigrants upon Government advances I have before had occasion to represent.* I am happy to observe that you have resolved on with-holding future advances to these persons, except under the very special circumstances you have referred to. I have, however, the pleasure of stating that the late arrivals of Emigrants have given greater general satisfaction, and I have no doubt that the anxiety, which you have so forcibly expressed as being felt by His Majesty's Government on this subject, will lead to every practicable means being resorted to to remove all remaining cause of complaint. It would be altogether unreasonable to expect that an universally favourable report could be made of the private moral habits of the Women, who are thus brought to the Colony, exposed as they must be to extraordinary temptations arising from the disproportion which still subsists between the sexes, and which must amount till this is rectified to a very high premium on an irregular unmarried life. Every increase in their numbers will materially diminish these temptations to those who come afterwards.

You have requested a particular account of the general character and behaviour of the young women, who arrived by the Bussorah Merchant, and of the manner in which they have been disposed of. Their character and behaviour have proved, as far as I have ascertained, in general satisfactory, though the remark I have just made certainly applies to some of them. They were placed on arrival under the charge of a Committee of Ladies and disposed of in the same manner as those, who arrived by the Red Rover, to the various persons who applied for their services. The greater number went off in the course of a few days in the capacity of domestic servants, and I believe there remain few, if any, who are not now provided for. If any remain now without employment, it cannot arise from the want of opportunity to procure a maintenance, but from the hope, by waiting, of obtaining some better situation than may immediately offer, or from their indulging in other courses of life, which their former immoral habits have led them to prefer. Difficulty may also occasionally arise from the inconvenience and delay of a communication with some parts of the interior, and still more from the indisposition of many of these persons to proceed up the Country, since there is at all times, I am persuaded, a considerable unsatisfied demand for domestic female servants of a respectable character among settlers. A few of the more educated among the Emigrants by the Bussorah Merchant have obtained

1833.
6 Dec.

Possible
disappointment
re type of
immigrants.

Report re
female
immigrants
per ship
Bussorah
Merchant.

* Note 81.

1833.
6 Dec.

Wages received
by immigrants.

situations as private Governesses. The wages received by the parties, who have engaged as domestic Servants (including housekeepers), vary, I believe, from £8 to £16 a year besides board and lodging, and those who are employed as Governesses receive as far as I have been able to ascertain from £20 to £25. I apprehend no difficulty in providing in the same way for the Emigrants by the Layton, when that vessel shall arrive.

You have adverted to the report made by my Despatch of 24th Sept., 1832, No. 104, on the rates of wages then paid in the Colony, observing that they were by no means so high as those stated in the printed paper issued from the Secretary of State's office for the use of Emigrants, and suggesting that the introduction of fresh labor since the date of that despatch may have still farther reduced its remuneration. In reply, I would state that I believe the prices then given to be pretty much the same with those that can be obtained at present. I have given the printed paper enclosed in your Despatch to the Collector of Internal Revenue and return it to you with his corrections. I selected him as the person from whom the best information on the subject could be obtained, not only from the intercourse which he holds with the Emigrants seeking Employment here in his official capacity, but also as Secretary to the Emigrants Friends' Society, an association established here some time ago for the accommodation and, if necessary, for the relief of those persons, but which like other Societies of the kind has been abandoned by all, who were most clamorous for its formation, and the whole of the labour is left to the Secretary alone. It is reported by him that "single men and women are in general most in request and next to them young married couples without children; but, with respect to the latter, husbands and wives are frequently obliged to accept of employment under different masters, much unhappiness and temptation to infidelity being thereby caused. But large families of thriving children would, he observes, in a few years prove a valuable accession to the Colony, and it would be a pity to discourage the Emigration of such families."

Type of
immigrants
required.

Difficulty in
obtaining
repayment of
advances from
immigrants.

It is stated in your Despatch that Expectations have been formed of repayments made, as it is supposed, by the earliest arrived Emigrants, in whose favor advances of £20 each had been issued. I am sorry to say that up to this date no repayments have been made by these persons; and, although many of them have signed a valid obligation upon which Execution against body or goods might be obtained, it has not been thought prudent to take such a step, and to obtain repayment by any means short of compulsion is, I believe, altogether hopeless. The

Collector of Internal Revenue thus observes upon this subject, "I feel confident that no material assistance can be looked for from this source. I am firmly convinced not only that no general or extensive repayment of the advances made can be enforced, but also that, if insisted on and enforced in the comparatively few instances in which it might be so successfully, the Consequences would be injurious, as sober, steady men would find themselves no better off after 2 or 3 years of laborious industry than their idle dissipated companions, the Government having carried off the little savings, which the good conduct of the first described parties may have enabled them to lay by, while the Public Houses have absorbed the disposable earnings of those last mentioned."

1833.
6 Dec.

Difficulty in
obtaining
repayment of
advances from
immigrants.

"If it be resolved on by Government to imprison all those, who do not repay the advances, $\frac{4}{5}$ ths of the persons so assisted will be imprisoned."

"If they are so, the news of such treatment will soon reach Britain, and an effectual stop will be put to Emigration."

"If the idle and drunken are allowed to evade repayment without suffering any bad consequences, while the industrious are compelled to pay because they possess some little means, it will in fact be holding out a premium for idleness and drunkenness."

I confess that I concur in a great degree with the opinions of the Collector of Internal Revenue on this subject; and I do not mean to enforce the repayment of advances, though I shall not fail to demand them in all cases where the parties can be got at; and I propose to continue to require the obligations in the most valid form. If it should be the desire of His Majesty's Government that the repayment of advances should be sought by legal process, I beg to be honored with your commands upon the subject.

I have, &c.,

RICHD. BOURKE.

[Enclosures.]

[*These returns have been omitted.*]

GOVERNOR BOURKE TO RIGHT HON. E. G. STANLEY.

(Despatch No. 104, per ship Children; acknowledged by right hon. T. Spring Rice, 15th November, 1834.)

Sir,

Government House, 7 December, 1833.

7 Dec.

In my despatch of the 5 February last, No. 19, I intimated to Lord Goderich that I had appointed a Board to report upon the state of the Military and Convict Buildings in this Colony, in the same manner as is practised by the respective Officers of Ordnance in those places, where they are stationed. I have now

Report *re*
military and
convict
buildings.

1833.
7 Dec.

Unauthorised
expenditure
on repairs to
buildings.

the honor to transmit a report from the Board, setting forth the expenditure that will be required during the year 1834 for the repairs and conversions of those Buildings, and recommending such additional works as the public service requires. I have added my observations in the appropriate column of the Report.

From the great delay, which necessarily takes place in communicating between this Country and England, considerable expense has been incurred in this year for the repair of Public Buildings without the authority which the Instructions of the Lords Commrs. of the Treasury require. The same will unavoidably happen in the ensuing year, for which I see no remedy, as it would encrease rather than diminish the inconvenience, if for want of timely repair the Buildings were suffered to fall into decay.

Report *re*
buildings at
Parramatta.

I have the honor to transmit by this opportunity a Report upon the Military and Convict Buildings at Parramatta, to which I referred in my despatch above mentioned. I have not been able on account of the great distance to obtain the inspection and Report of a competent Committee upon the various other Buildings of a similar description in the more remote parts of the Colony. But whatever money has been laid out upon them during the present year has been recommended by the Board after receiving the best information to be obtained from the Spot. I am the more particular reporting these circumstances, as, from the change which has lately taken place in the mode of erecting public Works in the Colony, a much more considerable expenditure of money will appear to have taken place in the two last than in the former years. Contracts have been obtained in all places where it was possible, in lieu of employing Convict labor and using Materials sent out from England, the charge for which did not appear in the accounts of the Colony.

Erection of
public works
by contract.

I have, &c.,

RICHD. BOURKE.

[Enclosures.]

[Copies of these reports are not available.]

GOVERNOR BOURKE TO RIGHT HON. E. G. STANLEY.
(Despatch marked "Separate," per ship Royal Admiral.)
Government House,

25 Dec.

Sir,

Sydney, 25th December, 1833.

Report *re*
legislative
council.

The difficulties, I have lately encountered in Council in carrying through the Jury Bill, which I have had the honor to represent in a former Despatch,* and the necessity under which I found myself of opposing measures apparently dictated more by private or party feeling than by a comprehensive view of the

* Note 82.

1833.
25 Dec.

public advantage, have led me to request your attention to a few observations on the composition of the Legislative Council as it now stands, and on the importance of the duties it has to perform.

I would first briefly bring to your recollection the fact that there are two Parties, into which the Community of New South Wales is more or less divided; these Parties are usually designated Emigrants and Emancipists, although the respective Bodies are not confined to that Exact description of Persons, for, in connexion with the latter, are to be found a great number of free Emigrants, and generally those who advocate liberal principles. I could not perhaps better convey a right impression of these two Parties than by mentioning the strong interest which is felt in the Colony in all the great events, which take place in England, and that the Sentiments of the liberal party here are with His Majesty's Government in all those measures of public improvement, which they are happily accomplishing. The existence of this general division of Parties in the Colony has been frequently recognised in Parliament, and would seem to have formed one of the strongest grounds for departing so widely from the Laws of England in the creation of the Legislative Council, composed of fifteen Persons wholly appointed by the Crown, and in the Institution of a Jury consisting of seven Military officers. By the appointment of the latter, His Majesty's Government contemplated and effected the erection of an impartial though not a popular tribunal for the trial of Offenders, and by reserving the nomination of the Members of Council it was doubtless proposed to obviate the ill effects, which were apprehended from a preponderance of the Emancipist Party, if the choice were left to popular Election. It has happened however that the Selection of the unofficial Members of the Council has been made almost entirely from the opposite side, and the official Members being for the most part inclined the same way, the evil of legislating for the whole community by means of a Council composed of one Party exists at this moment in full force, and is only checked by the power possessed by the Head of the Government to prevent the introduction of any Bills but such as he approves. This power is sometimes ineffectual, and, it being open to the Members to propose Amendments, occasion is offered for party feelings to operate, and the consequence of this state of things is that, in every question at all partaking of a popular character, the unofficial Members with but one exception are usually opposed to it.

General division of community into emigrant and emancipist parties.

Selection of unofficial members of council.

Predominating party in council.

Limitation on control of governor.

The power, which a Party has thus become possessed of contrary as it would seem to the wishes and intentions of H.M.'s

1833.
25 Dec.

Criticism
of power of
appropriation
of revenues
by council.

Government, is of no small magnitude. By the 9 Geo. 4, Cap. 83, the appropriation of all the Revenue of N. S. Wales is confided to The Governor, acting with the advice and consent of the Legislative Council. These Revenues amounted in the last year to £120,000 exclusive of the Income of Crown Lands and droits of the Crown. The Revenue for this year is Estimated at the same Sum, And for the next at £123,000. It appears then to be deserving of the fullest consideration whether a power, so large in itself and in its exercise by the unofficial Members attended with so little responsibility, can with Safety or advantage be lodged in their Hands. The experience I have had during the last Session, and the disposition manifested by the Council in certain cases have tended strongly to increase a Mistrust, which I had previously formed of the expediency of confiding so much irresponsible power to so small a number of Persons, who by combination may at least defeat the objects of Government, if they cannot secure their own.

Previous
reports on
actions of
council.

I have already had occasion to bring under your notice* the proceedings of this Body on the Jury Bill, and on the claims of Messrs. Dumaresq for compensation* for the loss of Tolls on Maitland Bridge; and I might add other cases in which the Council manifested a strong desire to dispose of the public money in opposition to the views of the Government and to that strict economy, which has been so frequently and strongly impressed upon the Government of the Colony by H.M.'s Ministers. The cases, I have alluded to, will perhaps serve as an illustration of the political character of the present Council, and enable you to judge of its actual state and the materials of which it is composed. The original warrant† for appointing this Council dated 30th January, 1829, included the names of several other Persons, who, in the event of their being any impediment to the appointment of those named first on the List, might be substituted in their places. All these Persons, however, with one exception are of one and the same political Bias, and appear to me to have been selected with a knowledge of and perhaps with a view to that Bias. It will readily be supposed that a Council so constituted has but little weight with the public in general, and affords no real support to the local Government. In some cases indeed, it is an absolute incumbrance upon the hands of the Executive and produces a strong popular feeling against its measures.

Political
character of
council and
of nominees
for vacancies.

Status of
council.

Popular
mistrust
of council.

The mistrust of the Legislative Body, which is entertained by a large portion of the people, including in the number Persons of integrity, wealth and industry, appears in the numerous publications which issue from the Colonial Press. The Press of this

* Note 82.

† Note 83.

Colony is free and may therefore be supposed to speak generally the sentiments of the public which supports it; and, as it puts forth eight newspapers in the week, each at so low a price as to leave it in the power of almost every one to purchase, it follows that it exercises a great influence over the whole of the reading as well as the uninstructed classes of the population.

1833.
25 Dec.

Influence of
colonial press.

One of the primary objects of appointing a Legislative Council was to give the Government a wider and firmer Basis on which to rest, to secure a point of Contact with the Colonists from which it might derive wholesome Counsel and public support. But, by the present constitution of that Body, this object not only fails but a contrary effect is frequently produced. It would therefore tend to facilitate the operations of Government and lighten the weight of responsibility laid upon the Executive, if some portion of popular sentiment were infused into the Council. This, however, can not be effected but by removing some of the present Members which would be deemed arbitrary, or by their resignation which is improbable, or by an Amendment in the N. S. Wales Act which H.M.'s Government would probably desire to avoid.

Objects of
creating
council.

Failure in
objects.

I would propose, as a partial remedy for the evil complained of, to open the doors of the Council Chamber to as many strangers as might be conveniently admitted; but to this measure there are some weighty objections. I will mention one. The act of Parliament requires The Governor to preside at all meetings of Council unless prevented by illness or other adequate cause. It is necessary and useful that, in a Council formed for enacting Laws, the projects and measures of the Government should be freely canvassed; and, when the discussions are open to the public, it is almost certain that a double portion of scrutiny will be exercised, and a considerable force of expression employed in canvassing those measures. This is among the advantages to be expected from open discussion. But it does not, I believe, happen in any assembly of the kind, which is open to the Public, that The Governor or Ruler of the State is compelled to preside, when measures of Government are under discussion. In his character of President, The Governor can not debate, and, if this privilege were allowed him, he could not exercise it without loss of dignity. To be present and silent and acting as a Moderator, when his own Character and conduct are discussing, is a condition to which no Person should be reduced, and more especially one who to be of any use should be regarded by the Public with deference and respect.

Proposed
admission
of public to
council
chamber.

Objections
owing to
presence of
governor.

I have thus endeavoured to convey a correct impression of the actual state of the Legislative Council and the position in which

1833.
25 Dec.

Proposal for
nominee and
elective council.

Qualifications
proposed for
members and
electors.

the local Government is placed. I am aware that it may be expected I should be prepared to suggest a remedy, and urged that I have not mentioned any but such as may be liable to objections. I have felt it my duty, however, to bring the subject under the consideration of H.M.'s Government, as it appeared to me to be much too important to pass over in Silence. If I might venture to propose that remedy, which under all the circumstances of the case appears to me to be most free from objection, and calculated to afford the greatest relief, I would suggest the enlarging by Act of Parliament the present Council to about 24 Members, two thirds of which should be elected by the Colonists for the most populous Districts in a given proportion according to the number of the Inhabitants, whilst the remaining third and the President should be named by the Crown. At the expiration of four years, there should be a new Election and nomination. Professing that a Council so constituted is an approximation only to a representative form of assembly, and that it is intended to be temporary in its duration, I would confine the eligibility of Members to Persons, who had arrived free or were born within the Colony, but extend the right of election to all Persons qualified to serve as Jurors. The qualifications of the latter dependant upon property are already fixed by Law at a much higher rate than they are in England, And a desire has been expressed by some Persons here to raise them still higher. The qualification by property now established by Law is a clear income arising out of Land or other real Estate of at least thirty pounds per annum or a personal Estate of at least three hundred pounds. I do not think that limiting by Act of Parliament the Eligibility of the Candidate in the same way that it is limited in Canada and Newfoundland, namely to Persons who had never been convicted of Felony or any transportable Offence, would be received with an ill-grace by the generality of the Colonists, nor even by the better thinking part of the Emancipists, few of whom stand in that relative position to the Electors as to be likely to be returned even if eligible to become Members of the Legislative Council.

Probable
demand for
legislative
assembly.

I would beg leave to add that the Colony is so rapidly increasing in population and wealth, that the period cannot be much longer delayed when the voice of the Colonists for a Legislative Assembly will be forcibly urged upon H.M.'s Government. It becomes then an important question of present expediency whether it may not be better to effect a change in the gradual manner I have suggested than to delay it until a much greater alteration in the Institutions of the Country will become inevitable.

Should the plan, I have thus very briefly thrown out for consideration, be deemed worthy of attention, I need not add that an Act of Parliament will become necessary; but as the new Act will be required in 1836,* perhaps the anticipation by a year or two may not be considered of importance.

1833.
25 Dec.

Necessity
for act of
parliament.

I have the honor to transmit a document, which it may be desirable to consult in considering the subject of this despatch. It is a Summary of the Census† taken this year. The Returns are but part sent in to Government and no official publication has yet been made; but I believe the document now sent has been accurately prepared.

Summary
of census.

I have, &c.,

RICHD. BOURKE.

[Enclosure.]

[*This summary has been omitted.*]

UNDER SECRETARY HAY TO GOVERNOR BOURKE.

(A private despatch per ship Hive; acknowledged by Governor Bourke, 19th July, 1834.)

Dear Sir,

Downing Street, 27th December, 1833.

27 Dec.

I have had the pleasure of receiving your letter of the 30th June, and was happy to be furnished with a Copy of the Votes and Proceedings of the Legislative Council. I believe it has been already explained to you that, in consequence of the error which had been committed in respect to a Ceylon Despatch improperly addressed to you, no despatch numbered 122 was forwarded to the Colony, and that the series will consequently be minus that number. I find that the Order in Council, alluded to in your letter, for abolishing the Church Corporation did not leave this Country until a month after the Despatches, of which you have acknowledged the receipt; but, as it must have long since arrived, I trust you have been enabled without any further difficulty to carry into effect the measures contemplated by the Government in respect to the Church Lands, which had been temporarily delayed. This Order accompanied Lord Goderich's Despatch No. 151 of the 10th March last.

Despatch
acknowledged.

Error in
numbering
despatches.

Order-in-
council *re*
dissolution
of church
corporation.

In regard to the Circuit Courts, on which subject it appears that you were also in expectation of receiving an Order in Council, and to the extension of Juries, I have some difficulty in stating precisely the reasons, which have prevented that Order in Council from being passed, or which may have delayed the transmission of Instructions upon the other point alluded to; but I apprehend both subjects were deferred under the impression that a new Charter for the Colony would be immediately prepared, and that a fitter opportunity would thus offer for

Reasons for
delay in order
re circuit
courts and
instructions
re juries.

* Note 84.

† Note 85.

1833.
27 Dec.

Delay in issue
of new charter.

arranging the details of those two important questions. Circumstances, however, have subsequently occurred to delay the proposed Charter, and the New South Wales Act will now so soon expire that it would scarcely be deemed necessary to put the Colony to the expence of a new Charter until after the renewal of the Act in the year 1836. The Secretary of State, however, authorises me to say, that he approves of the course, which in the meantime you have proposed to adopt of introducing a Bill limited to the extent which you have stated.

I remain, &c.,
R. W. HAY.

UNDER SECRETARY HAY TO GOVERNOR BOURKE.
(Despatch per ship Hive.)

28 Dec.

Letter re
debt due by
J. Kinchela.

Sir, Downing Street, 28th December, 1833.

I am directed by Mr. Secretary Stanley to transmit to you the enclosed letter from a person named Tribe, which Mr. Stanley has undertaken to forward to Mr. Kinchela; and, in delivering it to him, I am to request that you will suggest to him the propriety of settling the debt due to Mr. Tribe, as the Secretary of State cannot but think that the character of the Government is compromised by such proceedings on the part of the Public Servants.

I have, &c.,
R. W. HAY.

[Enclosure.]

[A copy of this letter is not available.]

UNDER SECRETARY HAY TO GOVERNOR BOURKE.
(Despatch per ship Hive.)

29 Dec.

Annual report
required re
R. Dulhunty.

Sir, Downing Street, 29th December, 1833.

The Captain Superintendent of the Royal Naval Hospital at Plymouth has applied to Mr. Secretary Stanley for an annual Report as to the existence of Mr. Robert Dulhunty now residing, it is understood, at Bathurst in New South Wales; and I am directed by Mr. Stanley to desire that you will, at the commencement of every year, transmit to him a Certificate duly attested of that Gentleman being alive; and, in the event of his death, that you will lose no time in reporting the same, in order that the Captain Superintendent may be promptly informed of the circumstance, the Lease of certain Land held by His Majesty's Government at Plymouth depending upon Mr. Dulhunty's life.

I am, &c.,
R. W. HAY.

SECRETARY OF STATE TO GOVERNOR BOURKE.

1834.

THE following despatches,* written in the year 1834, have been omitted:—

Despatches omitted.

Despatch dated	Despatch numbered	Transmitting
15th January	58	list of seventy-one convicts for treatment in second and third classes.
16th February	65	approval of conditional pardon submitted in despatch, dated 6th August, 1833.
28th February	67	refusal of remission of sentence for — Smets, convict.
20th March	69	correction of error in indent of John Freeman, convict.
20th May	82	free pardon for Daniel Harris.
21st June	2	do. for Martin Birmingham.
22nd June	3	conditional pardon for Luke Dillon.
23rd June	4	approval of tickets of leave for convicts, proposed in despatch, dated 23rd September, 1833.
3rd August	17	approval of commutation of death sentence to three years on Sarah McGregor and Mary Malony.
5th August	19	approval of sixty-six conditional pardons.
11th August	20	pardons for ten convicts convicted of high treason at Derby in September, 1817.
28th August	22	approval of conditional pardon for Patrick Wallis.
23rd December	6	refusal of petition for pardon from John George Green.
26th December	13	inability to grant passages to family of James Johnson, convict, through non-transmission of address.
28th December	16	approval of six free and sixty conditional pardons.
31st December	19	orders for sentence of transportation on ten convicts from Madras to commence from date of conviction.

UNDER SECRETARY OF STATE TO GOVERNOR BOURKE.

THE following despatches,* written in the year 1834, have been omitted:—

Despatch dated	Transmitting
9th February	application for indulgences for two Irish convicts John Donnan and William Lemon.
18th February	request for report <i>re</i> Michael Weston, convict.
19th February	do. <i>re</i> Matthew Lewise, convict.
7th March	list of fifteen convicts <i>per</i> ship <i>Susan</i> for treatment in second-class.
23rd March	instructions for prevention of escape of William Brown, convict.
9th April	list of eight convicts <i>per</i> ship <i>Surrey</i> for treatment in second-class.
10th May	request for report <i>re</i> John Kibbell, convict.
27th May	do. <i>re</i> Samuel Bishop, convict.
10th June	instructions <i>re</i> advances of passage money to six Presbyterian clergy.
14th June	list of immigrants assisted by Revd. J. D. Lang.
16th June	introduction for R. G. Johnson.
18th August	request for indulgence for William Tarrant, convict.
20th August	instructions <i>re</i> discontinuance of grants for discharged soldiers.
26th August	request for report <i>re</i> William Nixon Wright, convict.
27th August	list of ten convicts <i>per</i> ship <i>Henry Porcher</i> for treatment in second and third classes.
13th September	request for report <i>re</i> James Reilly, convict.
21st September	do. <i>re</i> Anne Keogh, convict.
22nd September	do. <i>re</i> James McArthur, convict.
27th September	list of twenty-nine convicts <i>per</i> ship <i>Bengal Merchant</i> for treatment in second-class.
31st October	request for report <i>re</i> William Adams, convict.
16th November	petition from Fisher Betts for ticket of leave.
1st December	list of forty-four convicts <i>per</i> ship <i>Lady Nugent</i> for treatment in second-class.
13th December	refusal of mitigation in sentence on Patrick Collins.

* Note 1.

1834.

ASSIGNMENTS OF CONVICTS.

Assignments
of convicts.

DURING the year 1834, letters, which enclosed the assignments of convicts (not available) *per* the ships named, were written by the under secretary of state for the colonies, with dates as under:—

Date of letter.	Ship's name.	No. of convicts.
15th January ...	Hive	250 Male.
7th March	Susan	300 "
9th April	Surrey	260 "
23rd July	George Hibbert	— "
29th August ...	Henry Porcher	260 "
27th September .	Bengal Merchant	270 "
3rd December ..	Lady Nugent	286 "

GOVERNOR BOURKE TO SECRETARY OF STATE.

Despatches
omitted.

THE following despatches,* written in the year 1834, have been omitted:—

Despatch dated	Despatch numbered	Transmitting
24th January	6	abstract of census.
3rd March	21	sixty-six conditional pardons.
12th March	26	conditional pardon for Patrick Wallis.
1st April	30	return of intestate estates.
2nd April	31	return of crime and punishment.
— April	32	report <i>re</i> escape of Thomas Dennett, jr.
11th April	33	return of tickets of leave granted in 1833.
26th April	37	" of pardons granted in 1833.
27th April	38	" of intestate estates.
4th May	44	half-yearly report from superintendent of botanic garden.
— May	46	minutes of executive council to December, 1833.
7th May	47	petition from John George Green for pardon.
15th May	48	petition from Patrick Collins for reduction of sentence from life to seven years.
17th May	50	nominal returns of convicts.
18th May	51	accounts of church and school corporation.
18th May	52	expenditure from military chest for quarter ending 31st December, 1833.
19th May	53	annual return of land grants for 1833.
29th June	55	expenditure from military chest for quarter ending 31st March, 1834.
6th July	60	petition from William Watt for conditional pardon.
9th July	62	request by convict for passage for wife and family.
11th July	64	half-yearly return of inspector of hospitals.
23rd July	69	return of intestate estates.
29th July	71	sixty conditional pardons.
29th July	73	" blue book " for 1833.
29th July	74	six absolute pardons.
5th September	79	rules and orders for supreme court.
6th September	80	return of persons under treatment in hospitals.
8th September	82	list of military officers receiving colonial pay.
10th September	84	regulations <i>re</i> appeals to privy council.
11th September	85	request for pardon for William Brown <i>alias</i> Bragge.
16th September	90	return of deaths of convicts in 1833.
24th September	98	" of civil servants appointed since 30 May, 1830.
25th September	99	quarterly returns from colonial treasurer, 1832-3.
26th September	100	expenditure from military chest for quarter ending 30th June, 1834.
26th September	101	seventy-one conditional pardons.
16th October	106	minutes of executive council to 30th June.
17th October	107	" blue book " for 1833.
20th October	111	fifty-one conditional pardons.
21st October	112	two absolute pardons.
22nd October	113	recommendation of Jasper Miles for ticket of leave.

* Note 1.

GOVERNOR BOURKE TO SECRETARY OF STATE.

1834.

THE following despatches* have been omitted—*continued*.Despatches
omitted.

Despatch		Transmitting
dated	numbered	
22nd October	114	return of intestate estates.
31st October	117	„ of convicts recommended for passages for families.
4th December	121	memorial for remission of sentence from Daniel Collins.
5th December	122	pardon for Martin Birmingham.
5th December	124	report on military and convict buildings at Sydney and Parramatta.
10th December	127	financial statements.
27th December	128	half-yearly report from superintendent of botanic garden.

GOVERNOR BOURKE TO UNDER SECRETARY OF STATE.

THE following despatches.* written in the year 1834, have been omitted:—

Despatch dated		Transmitting
6th May	
16th September	.....	returns of deaths of convicts.
18th September	.....	report <i>re</i> Margaret Gordon, convict.
20th October	.....	„ <i>re</i> John Kibble, convict.
21st October	.....	„ <i>re</i> Michael Weston and Matthew Lewis, convicts.
21st October	.....	„ <i>re</i> William Nixon Wright, convict.
16th December	.....	„ <i>re</i> Samuel Bishop, convict.

RIGHT HON. E. G. STANLEY TO GOVERNOR BOURKE.

(A circular despatch per ship Hive.)

Sir, Downing Street, 1 January, 1834.

1 Jan.

I transmit to you herewith, for your information and guidance, the accompanying Regulations, which are henceforth to be observed in regard to the safe custody and proper repair of the Furniture, provided at the public expense for the use of the Officers in charge of Colonial Governments, and I have to request that you will pay strict attention to the Instructions of His Majesty's Government on this subject, so far as the Colony under your administration is concerned. I have, &c.,

Transmission
of instructions
re custody of
furniture.

E. G. STANLEY.

[Enclosure.]

[A copy of these regulations is not available.]

UNDER SECRETARY HAY TO GOVERNOR BOURKE.

(Despatch per ship Hive; acknowledged by Governor Bourke, 1st September, 1834.)

Sir, Downing Street, 9th January, 1834.

9 Jan.

I am directed by Mr. Secretary Stanley to transmit to you the accompanying Copy of a letter from Madame Reus, complaining of the delay in communicating to her the result of her application to this Department in November, 1830, for Letters

Transmission
of letter from
J. de Reus.

1834.
9 Jan.

Refusal
to grant
compensation.

of Denization, in consequence of which delay she had made arrangements, from which she could not afterwards recede, for embarking for England. The Secretary of State has not of course felt himself at liberty to authorise the compensation being made to that Lady for which she has applied; but, as it appears to Mr. Stanley that from the date of Lord Goderich's Despatch* upon the case of Madam Reus that she was not informed so soon as she might have been of the course, which was open to her for the attainment of the object of her wishes, I have been directed to call your attention to the subject in order that any similar inconvenience may not occur in future, and also to request that I may be informed for Mr. Stanley's information the precise circumstances, which have occasioned it in the particular instance to which I am referring.

I have, &c.,
R. W. HAY.

[Enclosure.]

MADAME REUS TO RIGHT HON. E. G. STANLEY.

Sir,

5 Lime Street Square, 1 January, 1834.

I have most respectfully to acknowledge the receipt of the communication you have been pleased to have addressed to me of the 28th Instant.

Application
by J. de Reus
for letters of
denization.

I am desirous to solicit attention to the circumstance that, to my first application (for Letters of Denization) made in Sydney, I was directed to memorialize the Secretary of State; that I did so on the 12th November, 1830; and that, to my repeated enquiries of the proper authorities to be informed of the result, I only received for answer that no reply had been made.

Delay in reply
to application.

Having invested property in the Colony in the year 1826, and wishing to proceed with further outlays, I became more anxious to enjoy the rights of denization so that I might leave my children in the full possession of my property and of the rights of their adopted Country. Two years and three months had now elapsed since my application of November, 1830, and I appeared to be no further advanced than at that time. I then resolved to make personal application in England. I appointed a Mr. Norton my Attorney in Sydney. I arranged my affairs and having shipped my effects was just embarking with my Daughter, when the enclosed letter was handed to me (a copy of Mr. McLeay's letter was annexed to my late Memorial). Considerable effects being on board the Ship "Edward Lombe" and my passage money being paid, I had no alternative but to proceed to England. The lapse of time, together with the fact that the original of the enclosed was not written until it was known I was upon the point of Embarkation to solicit at the Seat of the Supreme Government a decision upon my Memorial, did appear to me so irreconcilable with the usual proceedings of Government, and, being unable to retrace my steps, I resolved to throw myself upon the justice of the Right Honorable the Secretary of State there appearing to me no other way by which there was a probability of my wishes being realised.

Under the particular circumstances here enumerated, more especially the fact that the official reply to my memorial of the

* Note 86.

12th November, 1830, was not sent to me until the 11th April, 1833, and then after my resolve to proceed to England was taken and the passage money actually paid for myself and Daughter and not recoverable back had I then remained in the Colony, I presume to hope that my peculiar case will receive due consideration, and that, as I was no party to what evidently has been an unprecedented delay, the Expences incurred thereby (unnecessarily it cannot be called because the payment of my passage and other Expences were incurred and paid before the letter of the 11th April, 1833, was received) will be duly estimated, that on our return letters of Denization for myself and family may be granted to us, and that a grant of Land, in proportion to the amount of Expences I have been put to by the want of a timely reply, may also be allowed to me or any sum you deem equivalent thereto, as the payment for the said Land at the value pr. acre, at which it may be rated at the time.

I commit my case in your hands not in the language of complaint, and I rely with confidence that the decision will be founded in strict justice, believing, as I do most conscientiously, that I am asking no more than may in my case be most fairly conceded.

I have, &c.,

JOSEPHINE DE REUS.

1834.
9 Jan.

Request for
letters of
denization and
compensation
for losses.

GOVERNOR BOURKE TO RIGHT HON. E. G. STANLEY.

(Despatch No. 1, per ship Royal Admiral; acknowledged by
earl of Aberdeen, 4th March, 1835.)

Sir,

Government House, 15 January, 1834.

15 Jan.

I have to acknowledge the receipt of your Despatch of the 21st August last, No. 33, in which you announce the determination of H.M.'s Government to continue Transportation to these Colonies as a Secondary punishment for offences committed in Great Britain, and to impose upon the transported offenders distinct measures of punishment according to the magnitude of their offences and the notoriety of their previous course of Life, separating them for this End into three classes of which the first shall be subject to confinement in one of the penal settlements hitherto set apart for the reception of such felons and offenders transported from great Britain to these Colonies, as here are sentenced to a second transportation by a Colonial Court; the second to severe labor in the chain gangs of the Colony; while the third only shall be eligible for assignment to Settlers; the two first being excluded from every mitigation of punishment even that of being transferred to another class of Convicts, until the expiration of certain specified terms of probation.

Despatch
acknowledged
re convict
system.

In reply, I may venture to assure you that the Colonists in general will feel great satisfaction at the declared intention of His M.'s Government to continue the transportation of offenders from Great Britain to these Colonies, the great and immediate advantage which they derive from the labor of the Criminals

Public opinion
in favour of
continuance of
transportation.

1834.
15 Jan.

Opinion of
R. Bourke in
favour of
discontinuance
of assignment
of convicts.

Advantages of
classification
of convicts.

Criticism of
proposed
probationary
periods.

Instructions
re employment
of convicts on
public works.

outweighing in their opinion the mischief, which persons of such polluted characters and habits cannot fail to inflict upon Society. Regarding however the advancement and prosperity of this Colony as now placed on foundations, which cannot be shaken, I am strongly impressed with the belief that the manner and morals of the people would be much improved, and ultimately their wealth and happiness would be much augmented by a gradual relinquishment of the Services of Convicts. Yet I am aware that this sentiment is not generally prevalent among the Settlers, and I shall therefore abstain from troubling you with any detailed explanation of the reasons, upon which my opinion is founded. With regard to the changes in the system of Transportation hitherto adopted for these Colonies, announced in your Despatch, I beg leave to express my opinion of the advantages to be derived from a classification in Great Britain of the Convicts transported hither. You are probably aware of my intention expressed in my despatch, dated 3rd November, 1832, No. 114, to render available to the Public Works of the Colony as much of the Convict labor as could with propriety be so applied. The arrangement of His Majesty's Government, by which the second class of offenders is directed to labor in Irons upon the Public Roads, will be in furtherance of my views on this subject. The only part of the arrangement, upon which I feel any doubt, is the length of time which transports of this class are condemned to labor in Irons before they can be permitted any indulgence. If seven years be passed in Irons before the Convict for Life is removed to the assignment Class, I apprehend it is proposed that eight years more should elapse under the terms of the Act of Parliament (4 Wm. IV, Cap. 62) before he is admitted to hold a Ticket of Leave, thus giving him fifteen years of Slavery before the very best conduct will obtain for him any permanent indulgence. To a person in the decline or middle age of Life, this will appear to be a sentence of perpetual severity and be more likely to impede than promote reformation.

With regard to that part of your Despatch, which states that, "excepting upon the grounds of economy, I cannot see any reason why all the newly arrived Convicts should not be sent to labor without exception at the Public Works, and that a relaxation from the severer duty should be the result of perseverance in good conduct for a certain time," I take the liberty of observing that, if by labor at the Public Works is here intended labor in Irons being that of the second class under the distribution now adopted by H.M.'s Government, it is necessary that you should be made acquainted with the opinion expressed by the Chief Justice that The Governor has no power so to alter the

sentence of the British Courts as to subject the transport to a severer punishment for his original offence than such sentence implies. Transportation is generally held to be *banishment with servitude*; and it is argued that the imposition of irons can only be justified as necessary for the safe keeping of the banished offender in the place of his banishment. Additional severity of punishment being in the case now under consideration avowedly the principal object of placing chains on newly arrived Convicts, it is the impression of the Eminent lawyer, whose opinion I am now conveying, that, notwithstanding security may be a secondary object, the imposition of Irons would be an unauthorized change in the nature of a punishment directed by law, a change of which the jurisprudence of England is so jealous that a Sheriff is held guilty of murder, if he execute a Criminal in any other than the manner prescribed, even from motives of humanity. On the same principle, it has been held here that the Governor has no power to send a transport from England to Norfolk Island or any other place of punishment for a twice convicted felon, unless under the Sentence of a Colonial Court. In explanation of this opinion of the Chief Justice, I have the honor to submit the Copy of a letter I have lately received from him on the subject. If, on the other hand, by the Paragraph I have just quoted from your Despatch, it be intended that Convicts should be sent on their first arrival to labor on the roads without Irons, I ought then to observe that it is an error to suppose that such labor is a severer duty than that to which Convicts are usually subjected in private service. Those, who labor on the roads in this manner, may indeed be said to form a fourth Class, which H.M.'s Government have not included in the classification now adopted, and have altogether omitted to notice, unless it be correct to suppose that labor of this kind was meant in the paragraph of your Despatch now under consideration.

It may be convenient, however, whether this supposition be correct or otherwise, that I should here give some detailed account of these Road Parties, lest their condition should not be understood by H.M.'s Government, and as they have proved a source of much trouble and annoyance to this.

These parties vary in numbers from 1,200 to 1,500 and consist mostly of those, who have been returned to Government by their Masters, as being unfit for private service, or who, having been convicted of some offence and sentenced to punishment, are sent upon its expiration to labor on the Roads, when it is usual to keep them for six months or more before they are considered again assignable to private Service, the mere fact of their being returned on the hands of Government in a community, where

1834.
15 Jan.

Opinion of
F. Forbes *re*
power to
impose irons
on convicts.

Description
of labour of
convicts on
roads.

General report
re road parties.

1834.
15 Jan.

General report
re road parties.

the demand for labor is very urgent and clamorous, and where there is constantly a very large arrear of applications awaiting the arrival of Convict Ships, by which they are to be satisfied, affords of itself a very strong presumption that the character of the men thus situated must be notoriously idle and worthless. You are already informed by my despatch of Novr., 1832, before alluded to, that the materials, of which the population of this Colony is composed, do not furnish the means of Engaging at any reasonable salaries such overseers as possess either the talent or honesty necessary for the proper controul of such men or for the enaction of an adequate amount of labor from them. The consequence has been that these Road Parties are proverbially inefficient. Besides which, they are found to be an annoyance to the neighbourhood, in which they are placed, by the incessant Commission of petty thefts and not unfrequently by Burglaries and Robberies. The prevention of these crimes is quite impossible without a large encrease to the Constabulary or Military, by means of which each gang might be guarded night and day in the manner adopted in the ironed gangs.

Proposed
abolition of
road parties.

On these accounts, this government have long entertained a fixed determination, which was formally communicated to the Legislative Council at their last Session, to break up these Parties altogether, provided Contracts could be obtained for repairing those Public Roads upon which they are employed. The attempt to obtain such Contracts has been made since the last Session of the Council and attended with but very little success. One only has been obtained and that at a very high rate, Notwithstanding that a bonus of an assignment of three Convicts per Mile has been given to the Contractors. I should therefore be glad to be enabled to effect the repair of the old roads as well as the construction of new by means of the ironed Gangs only. By the operation of a law* passed since my arrival, the number of Convicts sentenced to work in irons on the Roads has been considerably augmented by substituting this punishment for transportation for short periods to Norfolk Island or Moreton Bay. The arrangement of H.M.'s Government coming in aid of this measure, it is possible that at no very distant period the number of men at labor in Irons within the Colony may be sufficient for the Execution of all that work, which is now given to the ordinary Road Party working without Irons. In seeking to obtain Contracts for the repair of the Roads, and in assigning Convicts to the Contractors in proportion to the extent of the Contract, it was hoped that the greater number of these Convicts, who are now under that imperfect management which I have described, might pass into the service of Masters whose personal interests

* Note 87.

would prompt them to exert the necessary control. The comparative failure of the experiment, which has been tried, forbids my feeling sanguine as to its ultimate success. It is not unlikely however that the great and increasing demand for labor will enable the Government to dispose by assignment in the ordinary way of such of these delinquents as may not be altogether unfit for private service; whilst, with regard to those wholly worthless and incorrigible who would still remain on the hands of Government, I should consider it a great advantage to the public service to have the power of placing them in Irons, and, considering their character and circumstances, the exercise of this power could hardly ever prove an injustice. There might at the same time be made some distinction between these Persons and those who labor in irons under a Colonial Sentence for an express crime or under the sentence of the British Court in the description of their Irons, a superiority in the ration or by the privilege of assignment to service, whenever their improved conduct shall appear to deserve it. If the opinion of the law Officers in England shall coincide with that, which here subsists against the power of the Governor to place these men in Irons, I would submit whether it would not be desirable to pass an Act of Parliament to confer this power, to be exercised at discretion with respect to all transported Criminals not assigned to private Service.

I may be permitted in this place to notice a conversation, which is reported to have taken place lately in the House of Commons, in which it was asserted that a Classification of the Convicts immediately on their arrival has been successfully attempted in one or other of these Colonies by putting to labor in Irons those Convicts, whose character and conduct appeared to merit punishment of a severer kind. I need not observe that such classification has not been attempted here for the reasons I have already stated. If, however, I had no reason to doubt my power to inflict upon the worst of them a severer punishment, I should have been prevented by the great ignorance, which prevails as to the character of the Convicts upon their first arrival, rendering classification upon any sure data quite impossible. The indent received in the Colony, in which the Prisoner's conviction in England is recorded, does not even mention the crime of which he has been convicted; and in the Irish Indent the crime is recorded, but nothing is said as to character or conduct in other respects. The Surgeon is required to make a Report of the conduct of the Prisoners during their voyage out; but his Report is not a document upon which any classification can be safely adopted. It is usually expressed in very general terms,

1834.
15 Jan.

Proposed
abolition of
road parties.

Request for
power to work
convicts in
irons.

Denial of
report *re*
classification
of convicts on
first arrival.

1834.
15 Jan.

Denial of
report *re*
classification
of convicts on
first arrival.

and, though it may happen that one or two persons are pointed out either for particularly good or bad conduct, the character of the Prisoners remains undisclosed. Neither can classification be safely adopted from what is termed the Hulk Report, for, though the Character of each Person is there briefly described, it is notorious that, from the short time many of the Prisoners have been on board the receiving Hulk, their different characters cannot have manifested themselves. It is quite evident therefore that it would be quite unsafe to adopt measures of severity to some and of indulgence to others upon the first arrival of these Convicts, and that no classification can with propriety be adopted by the local Government, until time and circumstances shall have given opportunity to become acquainted with the conduct and discover the character of those, whom it is proposed to subject to different degrees of punishment. But the classification, which it is not possible for this Government to attempt, the process of the Colonial Law is commonly found to effect. It is by no means unusual to find that, of Convicts arrived in the same ship, some are at a short time after their arrival in the enjoyment of comparative ease as assigned Servants to Settlers, others at work in Irons on the roads, and others in the penal Settlement of Norfolk Island.

Classification
effected by
process of law.

Possibility of
classification
in England.

The desirable object of classification may however be advantageously effected in England upon the trial of the Criminal before an acute and intelligent judge, more especially when he has such object in view. To assist his judgment in deciding to which of the proposed classes the transported offender should be consigned, it is obviously necessary that he should be well acquainted with the actual condition of each. It may not therefore be inexpedient that I should endeavour to furnish this explanation through the medium of His Majesty's Government; and I am the more induced to make the attempt, as it does not appear to me, from a perusal of the evidence taken before Committees* of the House of Commons and from other documents relating to secondary punishment, that adequate information has been furnished as to its real character and effect in these Colonies. I would therefore even at the hazard of being thought prolix lay before you a description of the condition of the Convicts in each of the three classes into which it is the intention of His Majesty's Government that they should hereafter be distributed.

Condition of
convicts in
first class.

The Convicts of the first class in the order adopted by His Majesty's Government, namely those stationed at Norfolk Island, are placed under Regulations framed by my Predecessor in the year 1829. These are still in force, and, lest a Copy should not

* Note 88.

have been transmitted to the Secretary of State at the time of their publication, I have now the honor to forward it. Some misapprehension has existed, I am disposed to think, with regard to degree of severity exercised towards the prisoners at this Island, on account of the notoriety which has been given to a desperate expedient adopted by some of its inmates, who have committed Capital offences with the sole view of being removed to Sydney for trial, staking the chance of execution against that of escape during the passage or legal proceedings. There are, however, various grades of punishment in Norfolk Island, as you will perceive by the regulations; and the Convict, who shall be sentenced in England to confinement in Norfolk Island, will upon his arrival there be considered in the same light by the Commandant as an offender transported from hence and subjected in every respect to the treatment prescribed by these regulations. It is proper therefore to call your attention to them, and I will briefly point out the most important.

1834.
15 Jan.

Condition of
convicts in
first class.

The milder species of punishment, under which a few of the best conducted are there placed, is hardly distinguishable from the ordinary servitude of New South Wales. None are compelled to wear Irons, but those who are considered by the Commandant to be turbulent and dangerous characters, and for whose safe keeping the use of Irons is necessary, unless by virtue of a Special order of the Government, when Sentence of death passed in the Colony is commuted to Transportation to Norfolk Island. The Rule, upon which the Governor and Executive Council usually Act in such cases, is to impose Irons on the Criminals whose offences have been accompanied with violence. The generality of Offenders are placed on arrival, in what in the Regulations of the Settlement is termed the second class. They are obliged to labor from Sunrise to Sunset with one hour for breakfast and one for dinner, another hour being added for the latter in Summer; and the task imposed upon them is that of erecting the public works or laboring in the Field with the hoe or spade, no other implement being allowed in the fields of the settlement.

Treatment of
convicts at
Norfolk island.

After a certain term of probation, differing according to the length of Sentence, consisting, if the Prisoner is Sentenced for Seven years, of 2 years, fourteen years, of five years, for Life, of Six years, the Prisoner, if he has behaved well during such term, becomes eligible for the first class, and may be employed in less laborious occupations as Constable, Overseer or Stockman, or as an assigned Servant to the Officers of the Settlement. To this class, a small quantity of Tobacco, altogether denied to the others, is issued in the daily ration, and their wives may be

1834.
15 Jan.

Treatment of
convicts at
Norfolk island.

permitted to join them in the Island, an indulgence however which has been very rarely granted.

In addition to these indulgences, by regulations passed during the administration of the Government by Colonel Lindsay, persons, whose sentences to death by a Colonial Court have been commuted to transportation to Norfolk Island for life, are eligible after ten years' good conduct, and upon special recommendation of the Commandant, for a further commutation of Sentence for seven or fourteen years, commencing from the date of the latter commutation. Transports to Norfolk Island for life and capital respites are eligible to the same advantage after six years' good conduct. Those originally transported for fourteen or seven years, including those of the classes just described whose sentences may have been commuted for those periods, may obtain an entire remission of their Sentence to Norfolk Island by uninterrupted good conduct for four and two years respectively.

The Commandant is Empowered to grant to any Convict, whose conduct appears deserving, a small peice of Land as a garden, in which he may raise any vegetables (Tobacco excepted) for his own use; but all attention bestowed on these gardens must be additional to the appointed daily labor. This privilege had been withheld before my arrival, being regarded as too much of an indulgence for persons in such situations; but I thought it right to restore it, considering that, if a voluntary occupation of this humanising description in addition to a hard day's labor really did prove an indulgence, it was a kind of gratification intimately connected with an improving disposition and which ought to be encouraged to the uttermost.

Condition of
convicts in
iron gangs.

The next class of Convicts, to whose condition I have to advert, is that of persons laboring in Irons on the roads of the Colony under Colonial Sentence, to which are now to be added those who are to be consigned to this punishment on arrival in the Colony under the direction of H.M.'s Government. Upon the passing of the Summary Jurisdiction Act* now in force, which directs that prisoners Sentenced to labor in Irons should be under the Custody of Superintendents acting under the regulations instituted by The Governor, with the advice of the Executive Council, New Regulations were issued for the discipline and management of those Gangs. To bring this subject more fully under your notice, I beg leave to refer to my Despatch of the 3rd November, 1832, No. 114, written shortly after the introduction of those arrangements of which the following is an Extract:—"It has been necessary to place Ironed Gangs under a stricter controul than they have hitherto experienced. It was a general and well founded complaint that little labor was performed by these

* Note 87.

Convicts, and that the frequent escapes from the gangs filled the roads with Robbers. This imperfect management I attributed in a great degree to the gangs having been placed under Overseers of the Convict Class, appointed by the Surveyor of Roads. I have thought it right to remodel the Gangs entirely, and to place the whole under the charge of the Principal Superintendent of Convicts; under him are Superintendents and Constables at each of the Stockades, who have the legal custody of the Prisoners and discharge, in conformity with a Code of Regulations, duties similar to those of Gaolers and Turnkeys in permanent Prisons. To aid these Persons in providing for the safe custody of the Convicts, a Military guard is stationed at each Stockade. The direction of the work to be performed by the Convicts remains as before with the Assistant Surveyor, who is moreover empowered by the late Act of Council 3 W. IV, No. 3, to punish by whipping, not exceeding 50 Lashes, any disobedience, neglect of work or other misconduct of the Convicts." I have much satisfaction in being able to state that the arrangements here referred to have been attended with considerable success. There are now about 800 Convicts, working in Irons in Sydney and various parts of the Colony under sentences of different duration, varying from six months to three years. Those in Sydney are kept at work during the day, and confined on Board a Hulk at night. Those in the Country are placed in Enclosures called Stockades or in moveable Houses, which have lately been constructed for the purpose of placing small parties at work on such part of the Roads as require a few hands for a short time to effect their formation or repair. All these parties are superintended by a Civil Officer, acting in the Capacity of Gaoler, but have a Military guard to prevent violence or escape.

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Condition of
convicts in
iron gangs.

They are for the most part kept hard at work, and, upon their return from labor being immediately confined in their wooden Prisons, they have no time for recreation or opportunity for mischief; and their lot is felt by themselves as one of great privation and unhappiness, and have become, as I have reason to believe, formidable to others. Copies of the Regulations and Instructions to Superintendents are herewith transmitted.

The next class, whose condition comes under remark, is that of assigned Servants who form the great body of Convicts within the Colony. A very general impression has been created in England that the condition of these persons is one of comfort and enjoyment, and certain well authenticated instances have been from time to time produced in support of such an opinion. It may, however, be remarked that these instances, even when well authenticated and numerous, cannot be relied on as giving a

Condition of
convicts as
assigned
servants.

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Condition of
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servants.

fair view of the case. It is one of the most apparent and necessary results of the system of assignment to render the condition of the Convicts so placed extremely unequal, depending as it must upon a variety of circumstances over which the Government cannot possibly exercise any controul. It would be quite impracticable to lay down any regulations sufficient to remedy this inequality. The temper, character, Station in Society of the Master, the occupation in which it might be found convenient to employ the Servant, and the degree of connection or variance that might happen to subsist between this and his previous habits, have an immeasurable influence over his condition, both physical and mental, which no regulations whatever can anticipate or control. It is the inevitable consequence of this variety in the condition of prisoners during servitude that the most opposite statements can be made in perfect good faith by persons, who happen to have been strongly impressed by any particular instances that have come under their own observation, and can be illustrated in each case by facts equally undeniable. This being the case, the safest way of forming an opinion upon the general condition of the Convict will be, disregarding all reports of individual cases, to examine the general regulations, which are in force with respect to them and the powers which are possessed by their masters of procuring their punishment in case of their insubordination or disobedience. If these powers are considerable, and such as might, unless in reference to a condition of legal punishment for offences, be termed arbitrary, a slight acquaintance with human nature will enable us to draw with tolerable correctness fair conclusions as to the general condition of persons so circumstanced. I shall also refer to a few facts and returns, which will in a measure apply the test of experience to this general reasoning, by shewing in what way the powers of control and punishment, which I am about to explain, are actually exercised. Although the condition of the Convict is that of a Slave, it has not been thought desirable to give to the Master a power of personally inflicting punishment; a most extensive Summary jurisdiction over prisoners is however given to Magistrates, who, with the exception of those who are Stipendiary, are always themselves Settlers directly interested in maintaining the strictest subordination, and in exacting the most laborious exertion which the Law permits on the part of assigned Servants.

Act of council
re summary
jurisdiction of
magistrates.

The Act of Council, 3 Wm. IV, No. 3, regulating the present exercise of the summary Jurisdiction in New South Wales, was passed soon after I entered upon the Government of this Colony. Although a Copy of this Act was transmitted at the time for the

allowance of His Majesty on the usual form, a short abstract of some of its provisions may not be out of place here.

By Sect. 16, Any two or more Justices of the Peace form a Petty Sessions with power to take cognizance in a Summary way of all offences committed by Convicts, which fall under the two following classes:—

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1st. All misdemeanors, pilferings from a Master or Mistress, and Simple larcenies to the value of any sum under £5.

2. Drunkenness, disobedience of orders, neglect of work, absconding from the Employment of Government or his or her master, abusive language to his or her Master or overseer, or other disorderly or dishonest conduct; under this last expression "other disorderly or dishonest conduct," a most comprehensive authority is bestowed, which would certainly be out of place in any but a Slave Code, and a most serious trust is here reposed in the Magistrate.

The offences of the first class, which would amount to misdemeanors in free persons under ordinary English Law, are punishable in a male by any number of Lashes not exceeding fifty, or by labor in irons on the roads or public works for not less than six or more than twelve calender months; in a female by imprisonment for a like time with labor. Offences of the second class (which affect chiefly the relation in which Convicts stand to their Masters and the greater number of which could not be interpreted into legal offences in a free person) may be punished in a Male by the same number of Lashes, or, by the treadmill or imprisonment with hard labor for any time not exceeding two months, or by solitary confinement on bread and water for any time not exceeding fourteen days; in a female by imprisonment with labor or solitary confinement on bread and water for the like times respectively. Punishments for second offences may be doubled, and a second absconding is visited a year's labor in irons.* One Justice of the Peace may exercise all the powers of a Petty Sessions with regard to offences of the second class, except only that of doubling the punishment for a repeated Offence.† A Summary Jurisdiction over Convicts (i.e., without the intervention of a Jury or of any technical forms of procedure) is also vested in the Court of Quarter Sessions in every case not capital, and with the power of Sentencing the Offender to the same punishment that the law of England awards to the offence. Where this punishment is transportation, whether for seven or for fourteen years or for life, the place of transportation is Norfolk Island. In minor cases in which the offence, if committed in England, would subject the offender upon conviction either a first or second time to no higher degree of

* Marginal note.—s. 18, 19.

† Marginal note.—s. 27.

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punishment than imprisonment with hard labor, the Court of Quarter Sessions is empowered to sentence the offender either to the punishment awarded by the law of England or to Transportation to a penal settlement, or in case of a Male to labor in Irons for two years.

Practical
working
of act.

Regarding the measure of severity with which this Summary power is exercised over the Convict population, I have the means of forwarding to you some returns, which have been made to this Government in consequence of an enquiry I have lately instituted, and concerning which it may be desirable to afford some explanation. The Act of which I have above given an outline brought the power of Magistrates particularly single Magistrates within rather more defined limits than the former Acts. I have detailed the reasons, which induced me to propose this change in the law in transmitting the Act of Council for His Majesty's allowance. It substituted fifty lashes for the first offence, cognizable in a Summary way, in lieu of 150, which might have been before given by three separate inflictions, rendering likewise the power of a single Magistrate somewhat less than those of a Bench of two or more. An arrangement was also made concurrently with the passing of the Act, by which an Instrument of Corporal punishment of uniform construction was directed to be used in every District, being supplied from the Convict Barracks in Sydney according to a regulated standard. Each Bench had before Superintended or left to its inferior officers the construction of its own scourges, which varied according to accident or caprice, nor could it ever be ascertained, by the mere number of Lashes ordered, what degree of pain the culprit was likely to have suffered.

Opinions of
magistrates
re act.

Some few of the Magistrates of the Colony have shewn themselves much aggrieved at their powers being thus ascertained and defined. Such a feeling indeed is not to be considered extraordinary, as it requires much judgement and moderation to overcome the instinctive love of power, and I cannot but admire the readiness with which the generality of the Magistrates acquiesced in its diminution. The Magistrates, who felt the diminution of their power as a grievance, may perhaps have been excited to expressions of complaint by the annoyance, to which in their character of Settlers they are exposed from the misconduct of their assigned Servants. They do not perhaps consider that the natural dislike to compulsory labor, which is part of human nature and has existed and ever will exist under every form or mode of Government, must offer great difficulties to those who seek to carry on their business by such means. Severity, carried beyond a certain point especially towards men of violent or

turbulent feelings, will only tend to inflame their indisposition to labor into more dangerous acts of desperation and revenge; and the history of this Colony, during periods in which greater Severity was occasionally exercised, has fully borne out the truth of this observation. The easiest because most thoughtless and most self exculpatory mode of gratifying the ill humour of the moment, whenever a Settler is annoyed by the misconduct of his convict servants, is to charge the fault (not unfrequently occasioned by his own mismanagement) on the insufficiency of the law. It is to such feelings, fermented into something like party spirit, that I attribute the presentation to the Legislative Council at its last Session of two Petitions from the Magistrates and Settlers of Hunter's River, praying for a restoration of the former powers of the Magistracy over the Convict Population. I thought it right to institute a formal enquiry into those circumstances connected with the discipline of the Convict Population, which formed the subject of those Petitions, and I herewith transmit for your information certain printed documents, connected therewith, consisting of:

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Petitions for restoration of powers of magistracy.

1st. A Circular Letter from the Colonial Secy. to the Police Magistrates of the Colony, desiring them to superintend personally for one month the Corporal Punishments inflicted within their several districts, and to report thereupon;

Transmission of reports re corporal punishments.

2nd. The several Reports of the Police Magistrates in pursuance of such direction; and

3rd. A Circular Letter from the Colonial Secretary to the Magistrates of the Colony accompanying printed Copies of these Reports, and conveying my opinion that the allegations of the Petitioners were thereby disproved.

Should you have leisure to peruse the Reports of the Magistrates upon this painful subject, I think it will shew you that the condition of prisoners assigned to service in these Colonies is not, in the majority of instances, one of such an easy and enviable nature as it is frequently represented to be. Those persons in England, who have asserted a contrary opinion, have come to this conclusion from the evidence of settlers aggrieved and perhaps Exasperated by the misconduct of their servants, and therefore hardly capable of forming the most impartial opinion (however honestly they may give utterance to it) Upon the degree of severity to be exercised towards those who have offended them.

Condition of convicts as assigned servants.

It surely cannot be regarded as a distinction of trifling importance between these prisoners and the laboring class in England, to whose condition their's is sometimes represented as superior, that the former are often subjected to flogging and imprisonment for offences which in the latter would be punished by reproof

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or discharge. The only feature, in which the Condition of the prisoner can be plausibly represented as sometimes superior to that of the most suffering class of the poor at home, is in the article of food and clothing, the Government requiring the master to provide the Convict with a sufficiency of these for nourishment and health, though the vigilance of Government alone can secure the due fulfilment of these regulations:

Ration and
clothing for
assigned
convicts.

The ration ordered by Government consists weekly of 12 lbs. of wheat or 9 lbs. of second flour, or, in lieu thereof at the discretion of the master, 3½ lbs. of maize meal and 9 lbs. of wheat or 7 lbs. of second flour; 7 lbs. Beef or Mutton, or 4½ lbs. of Salt Pork; 2 oz. of Salt; 2 oz. of Soap.

Any articles, which may be supplied by the master beyond these, are considered as indulgences, which he is at liberty to discontinue, whenever he thinks proper.

The Clothing consists annually of 2 Frocks or Jackets; 3 Shirts; 2 Pair of Trowsers; 3 Pair of Shoes; 1 Hat or Cap; to be issued periodically on particular days. Each man is likewise to be supplied with one good blanket and a Paillase or Wool Mattress, which is considered the property of the Master. The great cheapness of Tea and Sugar of the Common kinds in this Colony had led many masters to issue small rations of these, unless where milk is obtainable from the stock on the farm, and a little Tobacco the growth of the Colony is sometimes added. But none of these are required.

Comparison
of condition of
convicts and
of unemployed
poor in
England.

Assigned servants are not in general I am persuaded better fed or clothed than is necessary to enable them to perform the work which is required of them, being in fact merely supplied in such a manner as prudence would dictate to the master, if he took a sensible view of his own interest without any consideration for the personal comfort of the servant. If it be occasionally the hard lot of some of the poor at home to obtain even less than this, it is no doubt embarrassing with reference to the administration of the penal laws, as well as with reference to every other interest of Society. It is indeed melancholy, if the laborer is ever reduced to a state of misery, to which nothing can be added for the purpose of punishment without affecting life or health. But it is plainly impossible to bring such a fact to bear practically on the measures to be pursued towards prisoners in this Colony. It would be a kind of reasoning most monstrous and unnatural to urge the with-holding from a prisoner of a sufficiency for healthy nourishment in a land of abundance, because innocent persons are elsewhere laboring under want. I have been tempted to this digression from the main subject of this Despatch by the importunity with which the occasional

superiority of the Convict over the unemployed poor at home in these respects is adduced as an objection to the existing system of transportation. The manner in which some of the machine Breakers, who were lately sent to Van Diemen's Land, have been stated by Colonel Arthur to have felt the degradation of Banishment to which their punishment subjected them, sufficiently proves that, with reference to those whose sensibilities had not been blunted by a repeated course of crime, there are circumstances in the condition of a convict, which outweigh even those great deprivations which were endured by these poor people before they attempted this absurd mode of relieving themselves.

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Feeling of
degradation by
banishment.

Having thus endeavoured to explain what appear to me to be the most important and distinguishing features in the different classes of convicts, placed under the charge of this Government, I will next proceed to observe the effect, which the new arrangement proposed by His Majesty's Government in the distribution of newly arrived Convicts will have within the Colony.

Probable
effects of new
method of
classification.

With respect to Norfolk Island, I shall find it necessary to augment the Military force there, when I break up the Penal Establishment at Moreton Bay, which I intend to do according to the recommendation of Lord Goderich, transferring the short sentenced men from thence to labor in irons here, and the long sentenced to Norfolk Island. The one measure will however furnish the means of effecting the other. It is not in reference to Norfolk Island so much as with reference to an increase in the Ironed Gangs that an addition to the Military force generally in this Command is so urgently required. I am very desirous of drawing your attention to this fact, since you appear to suppose that, by abstaining for the present from appropriating any of the new transports to that class of punishment which consigns them to Norfolk Island, the necessity for an increase to the Military may be postponed. I shall recur again to this subject before I close this Despatch.

Increased
military force
required at
Norfolk island.

Norfolk Island, in which there are now about 700 convicts, I believe to be quite capable of containing any number that I can contemplate as likely to be sent from Great Britain or transported from this Colony; but some additional expense will be required for Buildings, which can be chiefly erected by the Convicts themselves, and the outlay for which need not be considerable. Their labor may be made in some degree to contribute to their maintenance, though this would be more effectual but from the frequent hurricanes and changes of temperature which destroy the crops. Whilst upon this subject, I take the liberty of again bringing under the notice of H.M. Government a matter of the greatest importance to this Penal Settlement, namely, the

Capacity of
Norfolk island.

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Chaplains
required at
Norfolk island.

absolute necessity of appointing, as solicited in former Despatches, both a Protestant and a Roman Catholic Chaplain for Norfolk Island, where there is now no minister of Religion. I have felt continual regret at my inability to supply this deficiency.

Prison
required
at Sydney.

With regard to the second class, namely Convicts placed in the Ironed Gangs, it will be necessary to provide a Prison for the Enlarged number of those who will be employed in Sydney Town and Harbour. The most convenient will be a floating Prison. I must endeavour to procure one by purchase here, unless I receive an answer to my despatch of 5th February, 1833, No. 19, in which I recommended a Hulk being sent out from England. The increase, which will be made to the Ironed Gangs by following up the measures both of the Home and Colonial Government to which I have alluded, cannot however take place with propriety or safety without a proportionate increase of the Military force. The substitution of Sentences in Ironed Gangs for short sentences of Transportation is already increasing the number considerably; the transfer of the short sentenced prisoners from Moreton Bay to labor in Irons on the Roads on breaking up that Settlement will increase them still further, independently of the addition, which will be made to their numbers by those who may be in future consigned to this mode of punishment by the terms of their original sentence. It is absolutely necessary therefore to enquire promptly into the additional means that will be required for the Control and management of these gangs and to provide effectually for the occasion. I am convinced that a more slovenly mode of guarding the prisoners would defeat the ends both of the punishment of the offender and of securing his services to the Colony; and it would be a false economy to save the expense at the cost of returning to the former system. At the same time, I have not much doubt that, as the Colony will so materially benefit by the labor of these men being properly exacted, and their depredations being repressed, its inhabitants would willingly bear part of the expense. Perhaps that of providing rations for the gangs would be the most convenient. It is my Duty however most unequivocally to state that it will be absolutely impossible to encrease the number of Ironed Gangs in the Colony consistently with the peace and safety of its inhabitants without an additional Military Force. I have already had occasion to represent, in my Despatch* on the alterations made in the Ironed gangs before referred to, the very inefficient state of the Constabulary all over the Colony from the very worthless materials, of which it is composed, the condition of Society here not rendering it possible at present to engage

Necessity for
increased
military force
to control
iron gangs.

* Note 89.

at reasonable Salaries such persons as are fitted for the duties of Peace officers. Every week's Gazette contains a List of changes, which the Magistrates are obliged to make in the Constabulary through breaches of duty. Without the aid of the mounted Police, who are all Soldiers stimulated by extra pay and rewards to great exertions, the Country would be utterly untenable. These reasons have before led me strongly to urge upon H.M.'s Government the necessity of an addition to the Military stationed in this Colony, which, instead of increasing with the increase of the Colony, has actually been diminished by the detachment lately ordered of two Companies to Swan River. You will have already received my Despatch of 27th June, 1833, No. 53, with the enclosed Copy of a Letter to the Military Secretary of the Commander in Chief on this important subject. Should an additional Regiment be furnished, I should be enabled to carry on with efficiency that branch of Convict Punishment, which is connected with the Roads and Public Works. This might lead likewise, independently of any such contribution on the part of the Colonists as I have before suggested, to some part of the present expensive superintendence over Ironed Gangs being spared by the appointment of Subaltern and non Commissioned officers to the duties of Superintendents and constables at a lower rate of Salary than is now paid to the latter. I am the more anxious to impress upon you the necessity of augmenting the Military in this Colony, as you do not seem to consider that the new system of Classification renders such Augmentation indispensable. Upon the subject of this increase (though without reference to the peculiarly pressing reasons which I am now urging), I had the honor to communicate with Lord Goderich, previous to my leaving England to take charge of this Government; and you may perceive, in the minute of Instructions taken down in the Colonial Office in June, 1831, and which is recorded there, that Lord Goderich expressed his opinion that no further increase ought to be made to the number of male Convicts in N. S. Wales without an augmentation of the military force in the Colony. It has, however, happened both that the Convicts have been increased in the last two years, by the clearing out of the Hulks in England as well as by the conviction of new offenders, far more than could have been expected; while a greater proportion has been, and is likely to be under the new arrangements placed upon that kind of labor which demands a Military Guard. Notwithstanding this, the Military force has been, as I have already represented, actually diminished.

With regard to the effect of the new arrangement within the Colony as respects the remaining class, namely Convicts assigned

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to Settlers, there is not anything that can call for particular remark. They are to be assigned as heretofore. But the general increase in their numbers, which is taking place, and which from the resolution of H.M.'s Government to continue the system of transportation must now still continue, besides adding to the reasons for an encrease to the Military Force, may require some new Regulations for the distribution by assignment, which, when considered and matured, I shall have the honor to lay before you.

In conclusion, although it has not been my object, in describing the condition of the Convicts in the several classes, into which they are now divided, to enter into any consideration of the effect which a knowledge of the condition of these sev'l. classes may have on the conduct of the depraved part of the British Population, yet you will not fail to observe that, with respect to the third class (or assigned Servants), it is my belief that their condition is one of much greater privation and punishment than is generally supposed in England; whilst, with regard to the first, I would say that the condition of the Convict in Norfolk Island is considered to be one of much greater severity than he actually endures. Perhaps the misery, which distinguishes the depraved criminal in this Island, chiefly consists in the hopelessness of escape from his insular prison, a suffering which will be much augmented by passing the act of Parliament, proposed in my Despatch of the 30th November last, No. 93. But at all events, I should say that, with the exception of those whose feelings may be peculiarly sensitive to impressions derived from reflection upon their hopeless captivity, those who are laboring without irons in Norfolk Island are unquestionably better off than those who are laboring in irons within the Colony. With respect to the Condition of the second class, I believe it to be already looked upon with considerable dread by offenders in the Colony, and, if I shall be furnished with the means of perfecting the system, it may operate beneficially in the same way in Great Britain. I may be permitted at the same time to observe that the latter motive should not be allowed too much weight, nor carried the length of sacrificing the probability of reforming the transported offender in the Australian Colonies to the hope of deterring the unprincipled inhabitants of Great Britain from the commission of crime. Undoubtedly, if punishment appalling from its duration as well as its intensity be heaped on the transport here, however beneficially the history of his sufferings may operate on the fears of the British Criminal, it will induce a state of despair in the mind of the Convict which is found to be utterly at variance with reformation.

I have, &c.,

RICHD. BOURKE.

Erroneous
opinions in
England *re*
condition of
convicts in
colony.

[Enclosure A.]

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CHIEF JUSTICE FORBES TO GOVERNOR BOURKE.

Sir, Sydney, 10th January, 1834.

At your Excellency's desire, I have the honor to enclose my opinion upon the state in which convicts, transported from England to this Colony, are placed by Act of Parliament; and the power which the Governor may, in certain cases, legally exercise over them. In order to present the subject in a clearer point of view, I will briefly advert to those general principles of the law, which apply to transportation, in common with every other mode of punishment authorized by the law of England, before I proceed to the particular provisions of the Act, which contains the present law of transportation.

Opinion by
F. Forbes re
legal condition
of convicts.

It is a principle of the Common law that penal Statutes must be taken strictly, and cannot be extended by construction to the prejudice of those upon whom the penalty is inflicted.* In applying this principle of law to the proceedings of Courts of Criminal Jurisdiction, it is held that the Judgment of the Court must be according to the known law of the land, and that the execution must strictly pursue the sentence, *servato juris ordine*.† Thus, for example, if the law award imprisonment only, as the penalty of a particular offence, it would not be lawful for any Court to adjudge the offender to be imprisoned and kept to hard labor; and, *a fortiori*, it would not be lawful for the Sheriff or Gaoler to impose such additional punishment. In this view of the law, the several Statutes, lately passed for consolidating and amending the criminal laws of England, have expressly conveyed a discretionary power to the court of awarding hard labor in addition to imprisonment; and in conformity with the same view, the Act‡ for regulating the several prisons in England, after reciting that persons convicted of offences were frequently sentenced to imprisonment without hard labor, goes on to enact that it shall be lawful for two or more visiting Justices of any prison to order that all prisoners confined, in pursuance of any sentence or conviction, except such as shall maintain themselves, shall be set to some work or labor not severe; and in like manner, the transportation Act§ expressly provides that it shall be lawful to keep to hard labor any prisoner under sentence or order of transportation and confined in any Gaol in England, if one or more of the visiting Justices shall give a written Order to such effect; and for one of His Majesty's principal Secretaries of State to order such offender to be removed from the Gaol to the house of correction, and there kept to hard labor.¶ From these several express provisions of the law it is clearly implied that, without the sanction of the legislature, it would not have been lawful to superadd hard labor to imprisonment; and that no further penalty or coercion can be legally enforced than such as is expressed in the judgment of the Court, or implied as a necessary consequence of the law.

General
principles
of laws re
imprisonment.

The cases I have put, as illustrative of the principal that penal laws are to be construed strictly, are deduced from the known law

* *Marginal note.*—Plowden, 17.

† *Marginal note.*—Staump, 13; 3 Inst. 52; 1 Hale, 501.

‡ *Marginal note.*—7 and 8 Geo. 4, c. 28, s. 8, 9; 9 Geo. 4, c. 31, s. 3: 1 Wm. 4, c. 66, s. 26.

§ *Marginal note.*—4 Geo. 4, c. 64, s. 38.

¶ *Marginal note.*—5 Geo., c. 84, s. 18.

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—
General
principles
of laws *re*
transportation.

of imprisonment. The same reasoning, which applies to imprisonment, will apply with equal force to transportation, which, in most instances, is left by the Statutes which inflict it, in the discretion of the Judge, as an alternative with imprisonment. As a punishment in itself, it is unknown to the Common law of England; it derives its whole force from Parliament, and the manner of carrying it into effect, as well as the legal consequences attending it, depend upon the specific provision of the legislature; these provisions, however, form a part of the penal law, and are liable to the same strictness of construction, as other penal Statutes of the realm. Were transportation only awarded by law as the measure of punishment, the mere fact of being conveyed beyond the seas, and there left, would satisfy the judgment of the Court; and the transported offender would not, it is conceived, be subject to any further punishment or restraint, so long as he continued in exile. The first Act of Parliament, which authorized the Courts to transport offenders to the Colonies, took care to provide* that the offender should be kept to hard labor during the whole of his transportation. If the Act had not contained such a provision, it would not have been lawful to do anything more than convey the convict to the plantations.

By the present arrangement of the Criminal laws, transportation simply is, in the first instance, awarded by the Court, which tries the offender, as the punishment of his crime. The manner of carrying the sentence of the Court into effect, and the state of the convict consequent thereupon, form the subject of a separate series of legislative enactments. The present transportation Act† is very carefully drawn, and seems to have been intended to embody every thing in its clauses, which it might be expedient to perform, in order to its complete effect. It points out two general and distinct modes of dealing with transported offenders—first, by assigning them to servitude; and secondly, by keeping them to labor‡ at land, or on board of some vessel to be provided by His Majesty, within the limits of some port or harbour of His dominions, appointed for such purpose. With respect to the second mode of disposing of transported Offenders,§ it will not be necessary to offer any remark, as it does not fall within the present enquiry. I shall confine myself, therefore, to the power of the Governor under the first mentioned general provision of the transportation Act.

Power of
governor under
transportation
act.

The 5th sec. of the Statute|| enacts that, so soon as any offender shall have been conveyed beyond the seas and delivered to the Governor of the Colony, *the property in the service of such offender* shall be vested in the Governor for the time being, and that it shall be lawful for the Governor, if he shall think fit, to assign any such offender to any other person, and for such person to assign him over to any other person, and so on, as often as may be thought fit; and the property in the service of such offender shall continue in the Governor, or in such other person, or their respective assignees, during the remainder of the offender's term of transportation. The whole power of the Governor over the Convict is derived from the *right of property* conveyed to him by this clause

* *Marginal note.*—22 Ch. 2, c. 5.

† *Marginal note.*—5 Geo. 4, c. 84.

‡ *Marginal note.*—s. 8.

§ *Marginal note.*—s. 13.

|| *Marginal note.*—5 Geo. 4, c. 84, and see the preamble to the 4 Geo. 1, c. 11, for the origin of this clause.

of the Act; and as this right is made assignable by the terms of the same law which creates it, and without any limitation, it follows that the right of property itself, as well as all other rights resulting from it, become vested in the assignee of the Convict in as full a manner as it was previously possessed by the Governor. If this right of property be construed by the rules of the common law, and I know of no other legal guide for the interpretation of a Statute, it establishes a relation between the Governor, or his assignee, and the convict, analogous to that of master and servant; and with the right of property, as being incident to it, are conveyed also all such legal remedies as become necessary to enforce such right, as for example, the power of suing in contract or tort in Courts of law, and of exercising domestic discipline in case of misconduct, such as is permitted by the common law. In virtue of this right of property, the convict is bound to perform such work and labor as may be required of him by his Master; not however as a punishment by the Master for his original offence; the Master cannot be considered in the light of an executioner of the law; if he were to be so considered, he would be bound to enforce labor by his convict servant as a duty, and become liable to penal consequences himself in case he should neglect it. If the master then, as Master, should work his servant in fetters, or superadd any thing, as punishment, to servitude, I apprehend it would be unlawful, because such additional punishment is not a part of the sentence of transportation, and is not a necessary consequence of it. Applying the same argument to the right of property vested in the Governor, and the consequent power which he may exercise over unassigned convicts, I do not see how the fact of remaining in the service of the public can make any difference in the legal condition of the convict. And by parity of reasoning, if the Governor should order a convict, in whose services he has only a property, to be worked in irons as an additional punishment for his original offence, or removed to a penal settlement for a similar purpose, I apprehend it would not be lawful. Such a mode of treating the convict is not expressly conveyed to the Governor by the Act under which he derives his power; it forms no part of the sentence of the convict; and it is neither an express nor implied consequence of the law. Moreover, in ordering such additional punishment, the Governor has no means legally of informing himself either of the degree of the offence or the previous conduct of the offender; he must therefore rely upon reports, gratuitously given, by persons not responsible for their accuracy, and be exposed to all the consequences of error; and not only is such additional punishment unsanctioned by any law, but it is opposed to the first principle of criminal justice, as laid down by Lord Coke and Lord Hale. Having had occasion to allude to the use of fetters, I would state in explanation that I object to them as an instrument of punishment only, not as a means of security. This distinction may seem perhaps not very clear, but it is made by our law.* A Sheriff or Gaoler is bound to keep his prisoners in safe custody, but not to place them in irons unless there be danger of their escape. In the exercise of this discretion, the Sheriff must be prepared to justify the use of fetters by the necessity of the case, and he would

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Power of
governor under
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act.

* *Marginal note.*—Brecton L. 3-105; Mirror c. 5, s. 1-54; 3 Ins. 34; Bl. Com., 4,300.

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certainly become penally responsible for any abuse of his power. Hence it is that fetters are prohibited* within the walls of a prison, "except in case of urgent and absolute necessity." When however convicts are put to hard labor in places which do not afford an equal security against escape, it may be necessary, and consequently lawful, to use fetters. This necessity however does not exist in the case of convict servants employed by the Inhabitants of the Colony in their houses or farms, or by the Government in the usual course of their occupation in the public service. In such cases therefore, the rule of necessity fails, and with it also the legal justification of fetters as a security against escape. As matter of history, I do not find that fetters have been used in the Colony; of course I do not include cases of second conviction for offences committed within the Colony, the punishment of which, by the express provisions of the local Legislature, is hard labor in irons upon the roads or other public works of the Colony, under particular regulations and discipline.

In concluding these observations upon what I apprehend to be the legal condition of convicts in this Colony under ordinary circumstances of transportation and servitude, I trust it will not be necessary to add that my only object has been to present, in a clearer point of view, the actual state of the law, and the power which your Excellency possesses under the transportation Act, in order, if the law be considered defective, or capable of improvement, that recourse may be had to the Imperial Parliament.

I have, &c.,

FRANCIS FORBES,

Chief Justice, Supreme Court.

[Enclosure B.]

MINUTE No. 104.

Government House, 12th August, 1829.

Instructions for
promulgation of
regulations
re penal
settlements.

LET a copy of the accompanying Regulations which have been established for the Conduct of the Penal Settlement be communicated to the Commandants of Norfolk Island and Moreton Bay respectively, desire they will act on them as far as circumstances permit, and inform them that arrangements will be made with the least possible delay to enable them to carry them fully into effect. Request they will report by the earliest opportunity what Stores and Supplies they may respectively require to enable them to comply with the Regulations.

Let an Extract of such of the Paragraphs of Section 2, as relate to the Commissariat and Department of Public Works, be communicated to the Deputy Commissary General and Director of Works, in order that they may make such arrangements and convey such Instructions as are necessary to the persons charged with the Superintendance of their respective Departments at the Settlements pointed out.

RA. DARLING.

[A copy of the regulations will be found on page 105 et seq., volume XV.]

* Marginal note.—See prison Act, sec. 10, rule 12.

INDULGENCES.

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15 Jan.*Regulations of 1st December, 1831.*

For your information and guidance, I am directed by His Excellency the Acting Governor to transmit the accompanying Memorandum, explanatory of such part of the 35th and following paragraphs of the General Regulations of the 12th August, 1829, as relate to the Indulgences to be allowed to Convicts, Serving under the various periods of Colonial Sentence.

Regulations
re indulgences
for convicts
at penal
settlements.

MEMORANDUM.—1ST DECEMBER, 1831.

The following Rules are to be observed in extending the Indulgences allowed by the General Regulations to Convicts Serving at Penal Settlements, under Colonial Sentence, Viz. :—

1. *Capital Respites.*

Not to be allowed any indulgence whatever, until after Ten Years' actual Service at a penal Settlement, and until a commutation of sentence has been Sanctioned, as specified in next paragraph.

After ten Years of uninterrupted good behaviour, to be eligible (upon the Special recommendation of the Commandant, to be approved by the Governor) for a commutation of Sentence to 7 or 14 Years, commencing on the date of such commutation.

To come thenceforward in every respect under the Rules laid down below for Men under Sentences of 14 and 7 years respectively.

2. *Men for Life not Capital Respites.*

To be eligible for commutation of sentence as above after Six Years' actual good behaviour, and then to come under the General Rules for such commuted Sentence, but not to be allowed any Indulgence until the commutation has been sanctioned.

3. *Fourteen Years' Men.*

To be eligible for the First Class after four Years' actual Service at a Penal Settlement. After eight years' Service in the First Class, to be eligible for the remission of the remainder of Colonial Sentence as a reward for special good behaviour.

4. *Seven Years' Men.*

To be eligible for the First Class, after two Years' Service and for remission of Colonial Sentence after four Years' special good behaviour in the First Class.

5. *Under 7 Years.*

To be eligible for the first Class after one Year's actual good behaviour at a Penal Settlement.

Constables and Overseers.

To be Selected from the first Class only.

Two Years as Constable or overseer of a Gang, to be reckoned in all cases as three Years of other Service.

In the event of misbehaviour, claims to Indulgence of any kind previously earned, to be wholly forfeited.

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INDULGENCES TO THE PORT MACQUARIE MEN REMOVED TO NORFOLK ISLAND IN JULY, 1830.

Regulations re
indulgences
for convicts
removed from
Port Macquarie
to Norfolk
island.

HIS EXCELLENCY the Acting Governor is pleased to extend the benefit of the indulgences, allowed by the General Regulations, to every Man who has not Since forfeited them by ill conduct, in the Same Manner, as if these regulations had been in force at Port Macquarie at the time of his removal from that Settlement, that is to say,

The Sentences of those Men, who were not guilty of running away or any other serious offence at Port Macquarie, will be commuted to *Seven Years*, and of those who were so guilty to *Fourteen Years*, commencing in the case of Capital respites at the end of *Ten Years*, and of other Men for Life, at the end of *Six Years*, from the dates of their Colonial Sentences respectively.

Ration
regulations
at penal
settlements.

Ration Regulations.

No. 1. Ration allowed to Overseers, Boat men, Servants, and Constables at Norfolk Island, "Viz.":

Wheat Bread, $1\frac{1}{4}$ pound or Flour, 1 pound; Maize Meal, 8 ounces; Beef, 1 pound; Salt, $\frac{1}{2}$ an ounce; Sugar, 1 ounce; Soap, $\frac{1}{2}$ ounce; 12 oz. of the Bread to be issued for Dinner and 8 oz. in the evening, with Soup, or a portion of the Beef reserved from the allowance for Dinner.

Ration Regulations.

No. 4. Daily ration to Women at Penal Settlements, whether Prisoners or Free Women the Wives of Prisoners:

Wheat bread, 12 ounces; Maize Meal, 12 ounces; Beef, 4 ounces; Vegetables, 8 ounces; Salt, $\frac{1}{2}$ ounce; Soap, $\frac{1}{2}$ ounce. The Maize Meal to be divided between Breakfast and Supper.

No. 5. Daily Ration to each Male Convict at Penal Settlements:

Maize Meal, $1\frac{1}{2}$ lb.; Beef, 1 lb; Salt, $\frac{1}{2}$ ounce; Sugar, 1 ounce; Soap, $\frac{1}{2}$ ounce; Six ounces of Wheat Meal may be issued in lieu of eight ounces of Maize Meal when raised at the Settlement beyond what is required for the Civil and Military Establishment.

No. 7. Daily Rations to Children of Female Convicts; and to other Children when Authorised to be Victualled:

Under 2 Years of age.—Wheat Bread, 6 ounces; Milk, $\frac{1}{2}$ pint.

2 Years and Upwards.—Wheat Bread, 8 ounces; Maize Meal, 4 ounces; Beef, 4 ounces; Milk, 1 pint.

[Enclosure C.]

[These were the printed regulations for ironed gangs, dated 10th September, 1832.]

[Enclosure D.]

Instructions for
superintendents
of iron gang
stockades.

INSTRUCTIONS FOR THE SUPERINTENDENTS OF IRON GANG STOCKADES.

1. The Superintendent has the legal custody of the Convicts Committed to his charge, and with regard to their food, Clothing and hours of labor will Strictly observe the Regulations, promulgated in these respects by the Governor with the advice of the Executive Council.

2. The Superintendent is further responsible to the Governor for the Safe Keeping of the Convicts. Upon any Escape being reported, the conduct of the Superintendent will undergo the Strictest scrutiny, and, if there should be the smallest indication of negligence, inattention, or other misconduct on the part of the Superintendent, by which such Escape was favored, he will be immediately dismissed from his employment.

3. Escapes being most commonly effected by Convicts first getting off their Irons, the Superintendent is personally to inspect and carefully Examine the Irons on each Prisoner before quitting the Stockade in the Morning, and on their return in the afternoon. He is either in person or by his Assistant, in his presence, to search the persons of the Prisoners, and to take from them any Instrument which might be used in getting off the Irons. He is also carefully to examine the strength and form of all Irons either in use or sent to him to be used; and he will reject all he shall find insufficient, reporting all such insufficient Irons, and the cause of their insufficiency in his weekly Return.

4. A Constable is placed with each Gang, whom the Superintendent will employ as his assistant in the duties with which he is charged. One Constable will also be allowed as the Superintendent's immediate assistant in the internal duties of the Stockades, who will likewise act as Clerk to the Superintendent.

5. If a Convict has made an attempt to escape, or the Superintendent perceives any disposition in a convict to attempt an Escape, he will provide for his safe keeping by additional Irons at night, or when at work, in Such a way as may seem necessary.

6. The Superintendent is to inspect the Huts and Stockade once each day at least; and, if he finds any damage done to either which renders the confinement less Secure, he will forthwith repair it, or, if this cannot be immediately done, he will request (by requisition in writing to the officer of the Guard) that an additional Sentry may be placed at the insecure place until the repair is completed.

7. The Superintendent will frequently Muster the Convicts on Sundays and during wet weather when they cannot work. He will also occasionally and at uncertain times muster them at Night, and will make a Note of the Same in his Journal.

8. The Convicts will rise every Morning during the Summer Months at five o'clock, and during the Winter Months at day break, when they will be regularly mustered by Name. They will breakfast before proceeding to work. The Superintendent will take care that the Convicts keep themselves as clean as circumstances will permit, and that their hair is at all times closely cut, as the Shortness of their hair will not only contribute to cleanliness but to the discovery and apprehension of Runaways.

9. Upon the Convicts quitting the Stockade to proceed to Labor, the Superintendent will count them over to the respective Constables of Gangs, or, in the unavoidable absence of one or more of them, to the Non Commissioned Officer of the Military escort, who will give receipts for the Number delivered over respectively. On their return, the Superintendent will again count and Muster them by Name, and if all forthcoming he will cancel the receipt; but, if any one or more be absent, he will immediately report the circumstance to the officer Commanding the Guard; to the Assistant

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Surveyor on his next visit; and to the Principal Superintendent of Convicts by the earliest opportunity. He will also enter on his Journal such a full record of the Escape as shall enable him to give Evidence of the fact at any time however distant at which the Convict may be retaken.

10. The Superintendent will take care that the Constables of the respective Gangs remain with their Men at labor, and by vigilance and activity aid the Military in preventing Escapes. The Superintendent will also instruct the Constables to report to him any negligence they may perceive on the part of the Military, which report the Superintendent will immediately convey to the officer Commanding the Guard. He will also enter it on his Journal, and state it in his next weekly Report.

11. The Superintendent will occasionally visit the Gangs while at Work that he may be enabled to judge of the zeal and attention of the Constables and general behaviour of the Convicts, which visits are to be entered on his Journal; but neither the Superintendent or Constables are to interfere in any manner with the direction of the work, which is confided to the assistant Surveyors and their overseers alone.

12. The Superintendent will never allow the Convicts to be outside the Stockade except when at labor under the charge of the Constables and Guards. They are to be locked into their huts at Night, and upon no occasion whatever are they to leave the Stockade without a proper Escort. A Tub of Water and a drinking vessel, together with one or more Tubs for Urine, is however to be placed in each Hut previous to the Evening Muster.

13. When any Convict is in the Hospital Hut, the Superintendent will apply to the officer Commanding the Guard to place a Sentry at the door, should it appear necessary for the Security of the prisoner; and the Superintendent will take care that the Medical Practitioner appointed to the Gang (being a prisoner of the Crown) is in constant attendance in the Hospital Hut; and, if he find him negligent or disorderly, will not fail to set forth every instance of such misconduct in his Weekly Report, and bringing him before the Magistrate if necessary.

14. Whenever Convicts are ordered to a Colonial Hospital or before a Bench of Magistrates, the Superintendent will send a Constable in charge of them, if not more than three in number. When they exceed that Number he will apply to the officer of the Guard for an adequate Escort, and will in all cases attach the handcuffs of the Prisoners to a Marching chain before they quit the Stockade, and, for the safety of the hand cuffs and chain, the Constable or non-commissioned officer in charge will be held responsible.

15. The Superintendent will receive into his charge such Convicts as shall be forwarded to him by the Sheriff, or by the Warrant of any two or more Justices of the Peace, as directed by the 3rd of Wm. the 4. No. 3. He will, immediately on receiving them, enter their Names and descriptions in the Registers with which he will be furnished, taking care that the Columns of each Book are kept regularly filled as required.

16. No Gambling or Trafficking in Provisions or clothing is to be permitted on any account; and the Superintendent will check and discountenance by every means in his power all indecencies of Manner and Language among the Convicts under his charge. He

will also take care that no Spirits or other Liquor or any other Provisions than those provided by Government are allowed to pass within the bounds of his Stockade or building attached. Cantonments of the Military excepted, with which he has nothing whatever to do.

17. One Wardsman to every Seventy Men in the Stockade will be allowed, whose duty it will be to keep the Huts of the different Gangs and the utensils and bedding used therein as Clean as possible, to supply them with Water for drinking, and have the charge of and be accountable for the safety of the same. The Wardsmen generally will also provide Wood and Water for the Cooking and Washing of all the Convicts in the Stockade, and be also aiding and assisting at all times in the custody and Management of the Prisoners under the direction of the Superintendent.

18. One Cook and one Mess Man will be allowed to each Stockade, who will be assisted by a delegate chosen in rotation daily from among the Prisoners in Irons, No Convict however serving in that office two consecutive days. The duty of delegate will be to see that no pilfering or misappropriation of the Provisions take place from the time they are issued from the Stores to their final distribution among the convicts. The delegates' duty for the day ending with the dinner hour, he will proceed to work with his Gang upon the conclusion of that meal.

19. One Scourger will be allowed to each Stockade, whose duty it will be to inflict all Corporal Punishments legally authorised and directed by Competent authority. He will also perform the duties of Constable or Wardsman during the unavoidable absence of any Constable or Wardsman, and be at all times aiding and assisting in the safe Custody and Control of Convicts under the orders of the Superintendent.

20. Cooks, Wardsmen and Scourgers will not be appointed from the Men under Sentence to work in Irons. They will be supplied from other Sources. The Scourger, who will occasionally act as Constable, will be allowed a gratuity of eight pence per diem, in addition to the usual Rations; and each Cook, Messman and Wardsman, will for every Nine Months served in their respective Stations in the Stockade, be allowed to reckon Twelve Months in their probationary Term for a Ticket of Leave, and receive two Shirts and two pairs of Shoes per Annum in addition to the ordinary allowance of Clothing. Any misconduct on their part will however be visited by immediate punishment and a forfeiture of all previous Claims upon legal proof before and under the award of any Justice of the Peace or Assistant Surveyor of Roads as appointed by Law.

21. The Superintendent's hut will, when practicable, be placed outside the Stockade immediately in front of the Gate and looking towards it; a small Store will form part of this Building. The Constables' hut should look at the opposite face of the Stockade.

22. All Bedding, Cooking Utensils, and every article which may be denominated *Barrack Furniture*, will be in charge and custody of the Superintendent, who will be held responsible that every reasonable and practicable precaution is taken to ensure their care and Safety. The Superintendent will also be supplied with a Large Steel Yard, and a set of Weights and Scales of moderate size to enable him to receive and issue the Rations correctly; *proof Sieves*

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will also be furnished to each Stockade for the purpose of determining the *Quality* of the Meal Supplied by the Contractors, and the Superintendent will take especial care that no Flour is received which will not pass freely through it.

23. The Superintendent is empowered and *enjoined* to reject all inferior and unsound Provisions Supplied by any Contractor; and, when any dispute arises respecting the Quality of the Provisions, he will call upon the officer commanding the Guard and the Assistant Surveyor if present for their opinion, and will note the Transaction in his Journal. In like manner, should the Convicts object to any Provisions received and issued by the Superintendent, that officer will refer the Question to the Assistant Surveyor, and the officer of the Guard, who will please to Note their opinion in his Journal, a copy of which will be transmitted in his Weekly Report.

24. The Maize Meal for the breakfast of the Convicts will always be issued over night, that the Cooks may have time to prepare it; it will take five hours to do this properly. The other Provisions may be issued every Morning immediately after Breakfast. Always however in the presence of one of the Constables, the Cook and Delegate.

25. No Pigs, Poultry or Stock of any description are to be kept by the Superintendent, Constables or overseers at or near the Station.

26. The afternoon from three o'clock each Saturday is to be appropriated by the Convicts to washing their shirts and cleaning their persons, to which purpose the Superintendent will see that Soap allowed by Government is Strictly appropriated.

27. One knife and Fork, one Spoon, one panakin and one Mess Kid will be allowed to every Six Men; and it will be the duty of the Superintendent to see that each article is handed over to him (particularly the knives and Forks) each day after dinner before the Convicts quit the Stockade.

28. The Superintendent will muster every Convict under his charge each Sunday soon after Breakfast, and, after carefully examining their persons, will read prayers as directed by the Regulations for Ironed Gangs promulgated by His Excellency the Governor in Council. He will take care that due decorum is observed by the Prisoners during this proceeding. He will also take care that such of the Convicts, as choose to employ their time in reading on the Sundays, be not interrupted or annoyed in any way by their fellow prisoners.

29. The Superintendent will keep a Journal of his Proceedings, in which he will enter the visits made by him to the Gang while working on the Roads; the behaviour and conduct of the several Constables, overseers and Guards; the Musters on wet days and on Sundays; the duties on which the Constables may have been away from the Gangs; the Visits of all Magistrates, Assistant Surveyors and other authorised persons to the Stockade, with every other particular occurrence. This Journal is to be presented by the Superintendent to every Justice of the Peace who may come to the Station, and to the Assistant Surveyor at every visit, who are requested to Sign the Book in proof of its having been presented to them, and to insert such observations therein as they shall think proper.

30. The Superintendent will furnish the Returns, and keep the Registers, Diary, etc., set forth in the Annexed Schedule, and any other Returns or Reports called for by the Government, or other authorised person or persons. He will also produce these Instructions to any Justice of the Peace, or other authorised person if at any time called for.

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Instructions for superintendents of iron gang stockades.

31. Any neglect of these Instructions will subject the Superintendent to immediate dismissal.

Schedule referred to in Section 30.

1. Register of all Convicts working in Irons at Stockade.
2. Personal Description Book of Do.
3. Record of Summary Trials and punishments of Do.
4. Muster Roll.
5. Weekly Return for Principal Superintendent of Convicts.
6. Return of Summary Trials and punishments, weekly for Do.
7. Return of Convicts absconded and apprehended.
8. Journal. approved:—RICHARD BOURKE.

[Enclosure E] Petition from Hunter river district.

[Enclosure F] Petition from Newcastle and Port Stephen.

[Enclosure G] Circular to police magistrates and replies thereto on corporal punishments.

[Enclosure H] Circular to magistrates, 16th October, 1833.

[Enclosure I] Government order, 29th June, 1831.

[Copies of the two petitions were printed in the votes and proceedings of the legislative council for 22nd August, 1833; copies of enclosures G and H will be found in a volume in series II.]

GOVERNOR BOURKE TO RIGHT HON. E. G. STANLEY.

(Despatch No. 2, per ship Royal Admiral; acknowledged by right hon. T. Spring Rice, 11th July, 1834.)

Sir, Government House, 20th January, 1834.

20 Jan.

Several women with families having come out lately, either at the same time or soon after the arrival of their husbands under sentence of transportation, asserting that they have been informed by Mr. Capper of the Home Office that, on their arrival, their husbands will be assigned to them, and will thus be enabled to support them, I think it right to inform you that, since the passing of the Act 2 and 3 Wm. IV, C. 62, I have considered myself restricted from making such assignments (which are virtually releases from servitude) by the terms of that Act, and much distress has consequently been felt by the women and their families, who have come out with a hope of being united to their husbands.

Arrival of wives of convicts.

Inability to assign convict husbands to wives.

I have, &c.,

RICHD. BOURKE.

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20 Jan.

GOVERNOR BOURKE TO RIGHT HON. E. G. STANLEY.

(Despatch No. 3, per ship Royal Admiral.)

Sir, Government House, 20th January, 1834.

Despatch
acknowledged.

I have the honor to acknowledge the receipt of your Circular Letter of 30th August last, together with the accompanying Copy of a Volume of Tables compiled under direction of the Board of Trade. I ought however to notice that the Copy of a Letter from the Secretary to the Board, which is also therein referred to and stated to be enclosed, and to which the concluding paragraph of your Circular Letter appears to allude was not received therewith.

Enclosure
omitted.

I have only to add that every exertion will be used here to have the Blue Book forwarded in proper time.

I have, &c.,
RICHD. BOURKE.

GOVERNOR BOURKE TO HON. J. STEWART.

(Despatch No. 4, per ship Royal Admiral.)

Sir, Government House, 20th January, 1834.

Referring to my letter of 21st November last, No. 12, in which I have represented, for the information of the Lords Commissioners of His Majesty's Treasury, the low state of the Military Chest in this command and the falling off in the demand for Treasury Bills which renders it impossible to recruit the Chest in the usual way, I have now the honor to inform you that, to provide for its immediate wants, I have authorized the issue in British Silver from the Colonial Treasury of the sum of Twelve thousand one hundred and seventy four pounds four shillings, receiving in exchange Sixty thousand eight hundred and seventy one Spanish Dollars, which remain in the Military Chest subject to the order of this Government. These have been taken at the rate of four shillings each, being that at which the few dollars now in circulation at this place pass current. Should however any of these Dollars be applied for by the Merchants, as is sometimes the case for the purpose of carrying on their Trade with China, it is not my intention to dispose of them under the price of four shillings and four pence as fixed by the Instructions of the Lords of the Treasury. A Sale of Dollars to a Merchant in Sydney took place a short time ago when they were issued to him by the Deputy Commissary General at that rate under my authority.

Issue of
British silver
from treasury
to military
chest.

Sale of dollars
to merchants.

The sum which has been furnished by the foregoing means to the Military Chest does not much exceed one month's demand.

I therefore expect to be obliged to make some further Loans to the Chest, before I can receive the directions of their Lordships in reply to my Letter before referred to. The large quantities of Wool which are now shipping, by rendering the Merchants in a great degree independent of the Commissariat for Bills on England, have still further encreased the difficulties which have been represented. Their Lordships have been made aware by my last communication that there is now no claim of the Military Chest on the Colonial Treasury remaining unsatisfied, and that any Monies to be in future advanced by the latter to the former can only be in the way of Loan; and I need hardly add that the whole surplus in the Colonial Treasury, including the Income of Crown Lands which is set apart for the purpose of encouraging emigration to the Colony, will barely supply the demands of the Military chest for four Months.

I have, &c.,

RICHD. BOURKE.

1834.
20 Jan.

Deficiency
of funds in
military chest.

GOVERNOR BOURKE TO RIGHT HON. E. G. STANLEY.

(Despatch No. 4, per ship Royal Admiral; acknowledged by right hon. T. Spring Rice, 1st August, 1834.)

Sir, Government House, 21 Janry., 1834.

21 Jan.

In obedience to the instructions contained in your Despatch of 26th July, 1833, No. 29, wherein you express a wish to receive a similar account of the females sent to this Colony by the Bussorah Merchant and the Layton to that which was before communicated respecting those that arrived by the Red Rover, I have already had the honor to communicate the information desired with respect to the females, who arrived by the Bussorah Merchant, by my Despatch of the 6th December last, No. 101. I have now further to acquaint you that the Layton arrived in Port Jackson on the 17th Decr. last with 232 Female Emigrants under the charge of Mr. Wade as master, Mr. Beilby as Superintendent, and Mr. Rule as Surgeon. I much lament that I am unable to afford you such a favorable account of the general character of these females, as you appear to have expected from the means which had been resorted to by H.M.'s Government to secure due care in their selection, and from the zeal of the Committee of Gentlemen, who had undertaken the task. About fifty of the Emigrants fully answer to the description which it was hoped that the whole would have merited, but the remainder appear to be of very indifferent character. So much so indeed that it has been found impossible to form a Ladies' Committee to superintend their disposal. The Colonial Treasurer and Collector of Internal Revenue (the latter acting as Secretary to the

Reports
re female
immigrants.

Arrival of
ship Layton.

Adverse report
on character
of immigrants.

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Immorality of
immigrants
on voyage.

Emigrants' friend Society) have taken this trouble upon themselves, and the women are all distributed in various ways throughout the Community, though it is to be feared that not many of them are likely to add to it much of that decency and respectability which is here so much needed. As evidence of the character of the women, it appears from the statements of Mr. Beilby, the Superintendent, and the Surgeon, Mr. Rule, that an almost unlimited intercourse existed between the seamen and a great number of the female passengers during the voyage. The Superintendent and Surgeon mutually accuse each other of inattention and improper conduct, the former also accusing the master of neglecting to support him with his authority. The master states on the other hand that he performed duties, which properly devolved upon the Superintendent. It seems to be admitted by all parties that the greatest disorder and confusion prevailed during the whole passage, and the better part of the females bitterly complain of having been shut up with such associates as the majority of their fellow passengers were found to be. With whom the fault chiefly rests, I cannot undertake to say without fuller investigation. I believe, however, that I have no authority to withhold the passage money as the females are safely landed, whatever circumstances might be disclosed; and I do not see what end could be answered by a formal investigation, if indeed I have any authority to adopt such a course. Nothing appears to have occurred which demands the interference of a court of Law; and I am not aware that I am competent to take notice of anything which occurred on board, otherwise than by directing a prosecution. I merely enter on the subject at present, as it bears upon the character of the Emigrant Females, in order to shew His M.'s Government that still further precautions are necessary to secure a proper selection of the parties, to whom a bounty is to be paid. I found it necessary in order to allay the unpleasant feeling, which existed regarding these females, to request the Secretary of the Emigrant Friend's Society to publish in one of the Colonial Newspapers the advertisement* of the Emigration Committee in London shewing the desire which had existed on the part of the Committee to obtain proper evidence of the character of the females admitted to receive this bounty, and to allow him to state as from authority that H.M.'s Government had expressed themselves determined to adopt effectual measures for securing this end in future. In one passage of that letter, which vindicates the character of the females from the aspersions cast upon them, I must state that, in authorising its insertion, I was not at the time aware of the extent to which those aspersions were well founded. It may be difficult to say

Action
authorised to
allay ill-feeling
re immigrants.

* Note 90.

exactly with whom the fault rests, as it is impossible that the highly respectable and benevolent persons, who formed the Emigration Committee, could have acted with any but the best intentions. The evil is, however, I cannot but think to be attributed to the Employment of a Mercantile Broker as the medium between the applicants and the Committee. It becomes the interest of such a person to fill up the list as speedily as possible. It is not his object to scrutinize the claim of the applicant, but merely to obtain such documents as may satisfy the Committee. The Committee must no doubt have been often deceived by written testimonials improperly given or obtained, in which the Broker might have had ample means of discovering that the party was not the description of person, of which H.M.'s Govert. were in search. I would suggest that, in future, some competent person, who is altogr. unconnected with shipping, be selected for this duty, and that he be remunerated in such a manner as to prevent his personal interest from being identified with the ease and rapidity with which the lists can be filled up. It may be desirable, if the present system continues, that some officer should be appointed at a fixed Salary to scrutinize applications for advance or bounty on behalf of the Colony; and I would suggest in that case whether it would not be desirable that the person to fill the office should be appointed by the Government of this Colony, who might have reference in making it to the wishes of the Colonists in general. A satisfactory arrangement on this head would I think put an end to some of the feeling, which subsists in the Colony against the present land regulations, since those, who oppose the *principle* of the Sale of Land and the application of its proceeds to Emigration, who are not numerous, are at present joined by those, who, approving of the system, object only to the manner in which the funds are at present distributed.

1834.
21 Jan.

Probable cause of faulty selection of immigrants.

System proposed to control selection.

I have, &c.,

RICHD. BOURKE.

[Enclosure.]

MR. W. MACPHERSON TO THE EDITOR OF THE SYDNEY GAZETTE.

Sir,

Observing in your paper of yesterday an Extract* from the Hobart Town Courier, dated 20 November, that the "Ship 'Layton' was loading with free females off the Streets of London for these Colonies, and that the Agent to the Emigration Committee in London, or a person so calling himself, ensured these poor Creatures a passage, provided they could bring him five pounds each." insinuating that he receives that sum as a bribe to deceive the Government as to their Character; while the next Sentence proceeds to allude to their "Nightly perambulations in the Streets" to give an impression that they were knowingly and systematically Selected from Women of abandoned character.

Allegations re selection of immigrants per ship Layton.

* Note 91.

1834.
21 Jan.

As Secretary to the Emigrants' Friend Society, I consider it as in Some degree incumbent on me to make an endeavour to remove the Uncharitable aspersion on the Young Emigrant females just arrived, which this paragraph is calculated to convey.

Method adopted
for selection of
immigrants.

I annex a copy of the original advertisement of the Emigration Committee, from which it appears that the five pounds alluded to was merely the balance of the passage Money of £17, £12 being the Sum Contributed by the Government; and that Such conditions were imposed by the Committee on Candidates for their recommendation for the bounty as were Calculated to ensure their unblemished character, Certificates to that effect being required from the Minister of the parish or other respectable persons to whom they might be known. I may also add that the Committee were acting under the express Sanction of the Secretary of State for the Colonies; independently of which the names of the gentlemen who form it are a Sufficient guarantee that with their knowledge and consent, none but proper persons would be chosen.

Faulty
selections.

There is indeed no doubt that, notwithstanding the precautions adopted. Women of improper character have obtained passages, and have arrived both in this and the neighbouring Colony; but I am Authorised to state that the home Government has been made acquainted with this fact, and has expressed an intention of adopting more severe scrutiny into the character of the Young Women who are to be Sent out in the ensuing Year; Until nearly the end of which none are likely to arrive in any Numbers under the arrangements of Government.

Trusting to your liberality and Candour for the insertion of the above, and of a copy of the enclosed Advertisement in Your Next Gazette,
I have, &c.,

WILLIAM MACPHERSON,

Secr. to the Emigrants' Friend Society.

Emigrants' Friend Society Office, Sydney, 11 December, 1833.

GOVERNOR BOURKE TO RIGHT HON. E. G. STANLEY.

(Despatch No. 5. per ship Royal Admiral; acknowledged by earl of Aberdeen, 20th December, 1834.)

Sir, Government House, 21st Jan., 1834.

Assistance
from treasury
for military
chest.

Referring to my Despatch of 2nd Decr., 1833, No. 94, with its enclosure, I have the honor to transmit you herewith the Copy of another letter to the Lords Commrs. of the Treasury, reporting that, in consequence of the continued difficulty of disposing of Treasury Bills on the usual terms, I have found it necessary to pay into the Military Chest from the Colonial Treasury the Sum of £12,174 4s. receiving in return 60,871 Spanish Dollars.

I have, &c.,

RICHD. BOURKE.

[Enclosure.]

[A copy of this letter will be found on page 342.]

GOVERNOR BOURKE TO RIGHT HON. E. G. STANLEY.

1834.
24 Jan.

(Despatch No. 7, per ship Royal Admiral; acknowledged by right hon. T. Spring Rice, 15th November, 1834.)

Sir, Government House, 24th January, 1834.

I have much regret in acquainting you that I have found it necessary to suspend Mr. Wm. Henry Moore from the office of Crown Solr., and to recommend that His Majesty's pleasure be taken upon the appointment of his successor.

Suspension of
W. H. Moore.

I have before had occasion to notice, in my Despatch of 5th December last, No. 98, the difficulty which this Government had experienced from the disposition shewn by Mr. Moore to avoid his share of the duties, which, upon a late division of the business of the Crown Lawyers, it was found absolutely necessary that he should undertake. The tone, adopted by Mr. Moore both with this Government and with the Attorney General upon this subject, was wanting in that respect, which was due to both, as may be perceived by a perusal of the letters which I have now the honor to transmit. In the last of these, namely in the letter of Mr. Moore to the Attorney General of 7 Janry., 1834, you will find the immediate cause of Mr. Moore's removal from office, namely the impossibility of expecting the Attorney General to communicate with a person who had so grossly insulted him. Notwithstanding the disposition manifested by this correspondence, I was desirous to retain Mr. Moore in his office until His Majesty's pleasure could be communicated on the subject of those changes in the law Department, which have been suggested by my Despatch of 5th December last, when an authoritative and conclusive arrangement might put an end to all misunderstandings on the division of the duties of the several law offices. The tone, assumed by Mr. Moore in his letter of 7th January instant, rendered his removal quite unavoidable for the reasons stated in the Colonial Secretary's letter to Mr. Moore of the 18th January instant.

Reasons for
suspension.

I have no means here of satisfactorily filling up the vacancy, nor is it my intention, whilst awaiting your commands on this subject, to do more than give the Crown Lawyers the assistance of an Attorney in the manner they shall think most convenient at an expense not exceeding the Salary hitherto paid to the Crown Solicitor. I may be permitted to recall to your recollection what I have represented in previous Despatches respecting the loose and imperfect manner, in which the business of the Crown Solicitor has been hitherto conducted here. That officer has never discharged all the duties of an Attorney in Criminal Cases nor in the Civil business of the Crown. He has never for instance prepared cases for the Crown Lawyers from

Inability to
fill vacancy.

Neglect of
duties by
crown solicitor.

1834.
24 Jan.

Duties for
crown solicitor.

Legal officers
required.

documents furnished by the Colonial Secretary's or other offices, letters and papers having been placed confusedly before the Attorney and Solicitor General from whence to make out the case in the best way they could. From this and other causes, which I will not take up your time in detailing, the Crown business, both in and out of the Court, has been conducted in a very discreditable and disadvantageous manner. In appointing therefore another Crown Solicitor, it will be indispensable that he be engaged to discharge all the Attorney's duties in every matter in which the Crown is concerned. I beg very earnestly on the present occasion to recommend these observations to your attention, as well as those submitted in former Despatches as to the sufficiency of two legal persons in the employment of the Crown, one an efficient Attorney General and the other an active and Capable Crown Solicitor; the first at a Salary of £1,200, and the second of £700 a year, no allowance being made for Clerks to either.

I have, &c.,

RICHD. BOURKE.

[Enclosure No. 1.]

COLONIAL SECRETARY MACLEAY TO MR. W. H. MOORE.

Sir, Colonial Secretary's Office, Sydney, 5th August, 1833.

Instructions to
W. H. Moore re
his duties as
crown solicitor.

The Attorney General having been Called upon by the Governor's directions for an opinion on the Subject of the duties to be performed by you as Crown Solicitor,

I am directed by His Excellency to apprise you of the recommendation of that Officer in the Matter, and to request that you will attend to the Instructions herein contained, and assist the Solicitor General in all things relative to the Criminal Proceedings in the Supreme Court.

As all Depositions relative to Criminal cases to be tried in the Supreme Court, when received and perused by the Attorney General, are handed over to you with such observations respecting them as are thought necessary as to any additional or further information which may be required, you are to endeavour to procure Such information as Soon as Conveniently can be from the Magistrates or parties interested in each case, and, in the first week in the Month immediately preceding each Criminal Session, lay before the Attorney General a List of all Depositions then in Your Office, together with the Depositions and such further information respecting each case as you Shall procure, in order that the Attorney General may direct the nature of the informations to be prepared in each case, and the Witnesses necessary for the Prosecution, and appoint the time for the respective Trials, so that the witnesses may be Subpœned; as soon as you receive Instructions from the Attorney General on these points, you are to send a List of the different prisoners intended to be tried at the ensuing Sessions to the keeper of the Gaol in Sydney with Instructions to inform the Prisoners of their intended trial, and requiring from them a List of their Several Witnesses, in order that the Subpœnas for these Witnesses may be issued at the Same time as those for these witnesses for the prosecution, and which are if possible to be all issued

before the 12th or 15th of the Month, to enable the Witnesses from the distant parts of the Colony Sufficient time to arrive in Sydney to attend the Trials.

A Book is to be kept by you, in which the time of issuing each respective Subpœna is to be entered, and also the time when Such Subpœna in a Country Case was sent to the Post Office to be forwarded, in order that an affidavit to Such effect, if necessary, may be made in the Supreme Court in case a prisoner requires to put off his Trial on an allegation that his Witnesses had not been Summoned; and for the Same purpose you are, in all Town Cases, to oblige the Constable who Serves the Subpœnas to give you a return in writing of the due Service of them. After the issuing of the necessary Subpœnas, you are, if possible, on the 20th of the Month, and not later than the 25th, to lay before the Attorney General Drafts of the Informations directed to be prepared, with any additional information you may in the meantime procure, to enable that officer to peruse and amend such informations, and to have them re-copied if necessary for signature before the 1st day of the Sitting of the Supreme Court, in order that all the preparatory business of the Session may be finished on that day.

With respect to any Depositions that may be received during that Month, you are to follow such Instructions relative to them as the Attorney General may direct, so as, if possible, to have the cases Tried at the ensuing Sessions.

During the Sittings of the Supreme Court, your peculiar and *important* duty will be to procure the attendance of the Witnesses for the Prosecution in each case; and, as it is often necessary to obtain from those witnesses some information that the Magistrates have neglected or could not procure, you are personally to obtain Such information personally from the Witnesses and Communicate it, if necessary, to the Attorney General, or to the Solicitor General, or to the Solicitor General in Court. You are also every evening preceding or at all events before the Sitting of the Court on each day to furnish to the Solicitor General a return *Signed by you* of such of the cases intended for that day's Trial as the Witnesses are in attendance in, that no case may be brought forward until the Witnesses for the Prosecution are ready. You are also every evening to Send a List to the Sheriff of the Prisoners intended for Trial on the following day, and of Such Witnesses as may be required from the Hulk, and a List to the Principal Superintendent of Convicts of such Witnesses as are reported to you to be in Hyde Park Barracks, that they may be forwarded each morning to the Supreme Court; and attend personally in Court during its Sittings as attorney in the Prosecution to afford the Solicitor General any information he may require, and Answer the Court any questions respecting the issuing of Subpœnas and the Attendance or non-attendance of Witnesses as the Court may require, and keep an account of the Attendance of the Witnesses for the prosecution to enable You to Sign the necessary Certificates to entitle them to their Allowance for expenses.

As the Attendance of the Solicitor General in Court in future will render the preparation of Briefs necessary, you will prepare such documents for that Officer accordingly.

I have, &c.,

ALEX. MCLEAY.

1834.
24 Jan.

Instructions to
W. H. Moore *re*
his duties as
crown solicitor.

1834.
24 Jan.

[Enclosure No. 2.]

COLONIAL SECRETARY MACLEAY TO MR. W. H. MOORE.

Sir, Colonial Secretary's Office, Sydney, 21st October, 1833.

Referring to the correspondence which has taken place on the Subject of the relative duties of the Law Officers of the Crown, I have now the honor to inform you that, under the peculiar circumstances of the case, the Governor considers the following out line of the duties of those Officers respectively to be necessary for the purpose of carrying on efficiently the public business in the Courts, and I am therefore Commanded to request that the Same may be acted upon accordingly, Viz. :—

1. The Attorney General is henceforward to do all the Office business, Criminal and Civil.
2. The Solicitor General Shall conduct all proceedings, Criminal and Civil in the Court.
3. The Crown Solicitor Shall furnish Briefs when necessary and give all Such assistance to the Solicitor General in Court as is usually given by an Attorney to the Crown Lawyer, who conducts a Criminal Prosecution on Civil Suit in any Court in England. He is also to give his assistance to the Attorney General in his office, whenever required by that officer and he is not in actual attendance on the Solicitor General in Court.

I have, &c.,

ALEX. MCLEAY.

[Enclosure No. 3.]

[1] ATTORNEY-GENERAL KINCHELA TO COLONIAL SECRETARY
MACLEAY.

Sir, Attorney General's Office, 8th November, 1833.

Referring to your letter to me of the 21st Ultimo, No. 33/265, containing His Excellency's directions as to the duties of the Law Officers of the Crown, I have the honor to transmit to you the Copies of two Memorandums of the 1st and 7th inst. addressed by me to the Crown Solicitor, and I also transmit a letter received by me from the Crown Solicitor, enclosed in a Cover Marked "Private," but which I consider a reply to my official communication, and also from the matter contained in it I cannot treat as a Private Letter.

As my Memorandums were written in furtherance of His Excellency's directions, I request you will have the goodness to Submit them together with Mr. Moore's reply to the Governor for His Excellency's Consideration and directions, and I beg further, as the Business of the Court will Commence on Monday next, that you will obtain His Excellency's commands as soon as you conveniently can.

I have, &c.,

JOHN KINCHELA.

[2] ATTORNEY-GENERAL KINCHELA TO MR. W. H. MOORE.

Attorney General's Office,

1st November, 1833.

Mr. Moore,

I herewith transmit to You the Briefs in Twenty three Cases intended for trial during the next Sessions, which I had prepared during your absence. I send You also a list of Twenty (20) other cases, in which the Briefs are not yet made out, and request you will have the goodness to have the Entire of the Briefs made out

Outline of
duties of
law officers.

Transmission of
correspondence
with
W. H. Moore.

Instructions
for preparation
of briefs.

and deliver the Entire of them with a List of the Prisoners to be Tried as early as possible before the Sessions to the Solicitor General, that he may have time to read over the Cases and be prepared for the Trials before the Sittings of the Court.

1834.
24 Jan.

JOHN KINCHELA, Attorney General.

[3] ATTORNEY-GENERAL KINCHELA TO MR. W. H. MOORE.
Attorney General's Office,

Mr. Moore, 7th November, 1833.

As I will want to-morrow to Send the List of the Prisoners together with the Briefs to the Solicitor General to enable him to attend Court as Counsel for the Crown during the Session, which will commence on Monday next, I request you will have the goodness to send me a List of the Briefs in addition to those I had prepared during your absence and left in your office the other day; I would wish to see the Briefs in "Sloanes" case for horse Stealing, to mark a reference on it to Some Law Authorities for his guidance.

Request for
list of briefs.

JOHN KINCHELA, Attorney General.

[4] MR. W. H. MOORE TO ATTORNEY-GENERAL KINCHELA.

Sir, George Street, Thursday, 7th November, 1833.

I was not aware, after the Conversation I had with you on Monday last, that you Still required me to prepare what you are pleased to call briefs of the Depositions in all the Criminal Cases for Trial. I have looked over the whole of the Depositions, and I do not see any one Case of the Slightest difficulty or out of the Most ordinary routine of the Criminal cases that generally occur in the Colony, and which you Seem to be fully aware of by your not having pointed out any one case as requiring the attendance of more than one prosecuting Officer, namely the Solicitor General.

Objections by
W. H. Moore
to preparation
of briefs.

I considered the joint opinion of all three Judges on that point would have set at rest any question as to the necessity of going through the labour of making full length copies of all the Depositions in every case that is tried, the facts of which can as easily be ascertained by a reference to the original Depositions as to the copies.

I cannot but be fully aware that the object you have in casting this most unnecessary part of the business, which you require to be performed, on me is (independent of that of making a flourish in your periodical reports to the Governor of the enormous quantity of business transacted in your Department) that of endeavouring to force me to contribute to the necessary Support of your office by keeping a Clerk at my own individual expense, which you Seem on no occasion to have lost sight of since you first proposed that I should do so; or that I should pay your son half the amount that the Government allowed you for a Clerk to enable you to keep another, although you expressed yourself satisfied, after enquiry on a late occasion, that it could not be expected of me from the Nature as well as the terms of my appointment as Crown Solicitor.

Motives alleged
for requiring
briefs.

I have never yet flinched from the performance of my duties that have been required of me; it is immaterial to me what part of the Law business of the Crown I have assigned to me; I have never yet taken part in any of the divisions of the business you have pointed out or recommended. You have hitherto had that entirely your own way; but I must and do Strongly protest against my now being made a mere copying clerk of the very lowest grade, and of

1834.
24 Jan.

Protest against
preparation of
briefs.

preparing that part of the routine business of an Office, which, if found necessary to be done, is always placed in the hands of what are termed Hackney writers.

Should you persist in requiring this part of what I must again say is a most unnecessary duty to be performed by me, I must in justice to my own professional character, as well as feelings, Appeal by a full Statement of the whole Circumstances to that quarter, which I have no doubt will do justice to all parties.

I am, &c.,

W. H. MOORE.

[Enclosure No. 4.]

COLONIAL SECRETARY MACLEAY TO MR. W. H. MOORE.

Colonial Secretary's Office,

Sydney, 9th November, 1833.

Sir,

The Attorney General having Submitted to the Governor your letter to him of the 7th instant, respecting the preparation by You of Briefs of the depositions in the Criminal Cases for trial,

I am directed to express His Excellency's Surprise and regret that, in writing upon an official Subject, you Should have expressed Yourself to the Attorney General in terms So offensive and un-called for as those contained in your letter. With respect to the matter of your complaint as to the preparation of Briefs, His Excellency lately found it necessary, for the due performance of the Crown business in the Law departments of the Colony, to make Such a division of the duties of the Attorney General, the Solicitor General, and the Crown Solicitor, as Appeared to the two Judges then in Sydney likely to effect that object. In one part of this arrangement, you are required to furnish Briefs when necessary, and of the necessity doubtless the Attorney General or the Solicitor General, who is to use them in Court, must be presumed a more fitting judge than Yourself, who is desired to prepare them. It is obvious indeed that, as the Court frequently calls for the original depositions, the Crown Lawyer conducting the case Should have Copies to refer to; and His Excellency therefore finds Himself Under the necessity of requiring You to discharge the duty which is assigned to you, and to avoid giving any interruption to the due performance of the business of the Crown by Unnecessary remonstrance or delay.

I have, &c.,

ALEX. MCLEAY.

[Enclosure No. 5.]

COLONIAL SECRETARY MACLEAY TO MR. W. H. MOORE.

Colonial Secretary's Office,

Sydney, 20 November, 1833.

Sir,

Referring to my letter of the 9th inst. No. 33/252, respecting the preparation by you of Briefs of the Criminal cases for Trial in the Supreme Court,

I am (directed by the Governor to Acquaint you that the Attorney General has reported that, owing to your not having furnished Briefs to the Solicitor General in the cases of Reynolds for Perjury and Finney for murder, the Trials of those Men were not entered upon; and to request your explanation in the matter, as it appears Mr. Kinchela addressed you on the Subject of a Brief in the case of Finney on the 14th instant.

I have, &c.,

ALEX. MCLEAY.

Censure on
W. H. Moore.

Instructions
to prepare
briefs.

Explanation
required *re*
non-preparation
of briefs.

[Enclosure No. 6.]

1834.
24 Jan.

MR. W. H. MOORE TO COLONIAL SECRETARY MACLEAY.

George Street, Sydney,

Sir, Thursday evening, 21 November, 1833.

I have the honor to acknowledge the receipt this afternoon of your letter of yesterday's date, requesting my explanation of the reasons why I had not furnished Briefs to the Solicitor General in the cases of Reynolds for Perjury and Finney for Murder, the Trials of which cases are stated by you not to have been entered upon, in which latter Statement there appears to have been some mistake, as the first mentioned case was tried on Monday the 18th instant as Soon as the previous trials would allow it to come on, and the last mentioned case was tried on Friday the 15th and occupied the whole of that day.

Explanation by
W. H. Moore *re*
non-preparation
of briefs.

In neither of the cases mentioned, I am free to admit were the Briefs made out; and, although that omission was unavoidably occasioned by other circumstances than that of the two Courts Sitting at the Same time for Criminal Trials, that is to say the Civil Jury Court and the Criminal Jury Court, that circumstance alone would have rendered it utterly impossible for any one person to have prepared the Briefs so as to keep both those Courts Sitting at the Same time, on the very short notice that I had of that duty being required of me.

The circumstances that led to the Case of Reynolds being without a Brief at the time of the Trial were these:—That case had been originally appointed to be tried on Wednesday the 20th, and Another case of James Lynch also for perjury had been originally appointed to be tried on Friday the 22nd. Both these Prisoners had elected to be tried by a Civil Jury,* and, as there was not business before the Civil Jury Court that could be supposed to be Sufficient to occupy the Court the whole of Friday, I was actively employed during the whole of Thursday by endeavouring, in addition to the business of that day, to get these two cases in readiness So that they might follow the trial of Finney and by that means keep both Courts going for a day or two longer. The case of Reynolds was of so very simple a nature that I could not have imagined a Brief in Such a case would have been insisted on under the circumstances which led to its being prematurely, as I have Stated, brought on. At any rate it would have been madness on my part to have exerted myself as I did for the expedition of business, if I could have imagined it would have been perverted into a wish to create interruption or raise obstacles to it.

With respect to the case of Finney, the want of a Brief in that case arose from totally different circumstances excepting partly from the total impossibility of any one person (upon so Short a notice as I have Stated) preparing Briefs in all cases during the Sitting of both the Courts. On receipt of your letter of the 9th instant, which only came to my hands in the middle of the day of Monday the 11th, whilst I was in attendance on the Attorney General in the Supreme Court, I quitted the Court for the purpose of carrying the directions of His Excellency into effect by immediately commencing on the preparation of the Briefs; for, however

* *Marginal note.*—and were very anxious their trials should take place as early as possible, as so few of the prisoners had elected to be tried by a civil jury.

1834.
24 Jan.

Explanation by
W. H. Moore *re*
non-preparation
of briefs.

unjustly towards me or improperly for the due performance of the Law business I may conceive that His Excellency has been persuaded into the necessity of including on the directions he has been pleased to give, I intended implicitly to abide by them Until Some further alterations might take place, which I confidently looked forward to, and therefore refrained from answering the letter I have last alluded to, or pressing any further representation to His Excellency on the Subject. I had not been in my office from leaving the Court five Minutes, when I received a Message from the Attorney General to attend on him in Court again, whither I proceeded and then had a conversation with him on the Subject, in which I represented to him the utter impossibility of my doing both duties, but that I would do whichever he directed; and to which he answered, you must remain here then, I cannot do without your attendance here. I accordingly divided my attendance on the Attorney and Solicitor General Alternately in both Courts during the whole of the first week that they sat; and on Thursday Morning, the day I was exerting myself to get ready the cases I have mentioned in addition to my attending both Courts, The Attorney General told me that the Solicitor General had the day before complained to him of not having had Sufficient attendance on him the day before, and that I must therefore give more of my time to him and of course less to himself.

I know not what representations The Attorney General may at any time have been pleased to make to His Excellency respecting my Conduct (excepting my not having furnished the Solicitor General with Briefs in these cases) and therefore have had no further opportunity of answering them, or doing away with the unfavorable impression towards me that His Excellency appears by the tone of your Communication to have received from them, and, if so, I must say most unjustly. I do with the utmost deference to His Excellency's opinion insist upon my having at all times and on all occasions exerted myself to the utmost for the dispatch, as well as the efficient performance of all the duties connected with the Offices that I have from time to time had the honor to fill in the Colony.

My letter to the Attorney General of 7th instant was marked "private," and was not intended by me to be with any other view than that of remonstrating Strongly against being employed in the very Subordinate Situation of a mere Hackney writer, at the Same time that he is employing a Prisoner of the Crown as a Clerk in a much more respectable as well as responsible branch of the profession.

I have never on any occasion Shrunk from my duties that have been assigned to me; but I must say that the Attorney General is heaping upon me more manual business than any one man can perform, and is at the same time expecting of me the impossibility of my attending both Courts, for no other purpose than that of endeavouring to force me out of my reduced Salary to keep a Clerk for the performance of them.

Unless His Excellency is pleased with the assistance and Advice of the Judges to make Some equitable division of the duties of the Law departments of the Colony, I feel it is a duty I owe to myself to refer my case to the Home Authorities; and I trust His Excellency will in that event permit me to forward to the Secretary of

Proposed
reference to
secretary of
state.

State through him a full Statement of the present arrangements of those duties, and of the means which each of the Law Officers have afforded them of Carrying them into operation with Copies of the correspondence that have hitherto taken place.

1834.
24 Jan.

I have, &c.,
W. H. MOORE.

[Enclosure No. 7.]

COLONIAL SECRETARY MACLEAY TO MR. W. H. MOORE.

Colonial Secretary's Office,

Sydney, 29 November, 1833.

Sir,

The Governor having had under Consideration your letter of the 21st instant, Containing, in reply to mine of the day preceding, your explanation of the reasons why you had not furnished the Solicitor General with Briefs in the cases of Reynolds for perjury and Finney for Murder,

Letter acknowledged.

I am directed by His Excellency to acquaint you that He is of opinion you have exonerated yourself from the Charge of intentional neglect of duty in not having furnished Briefs in the Cases alluded to, considering that omission to have been unavoidably occasioned by the circumstances Stated.

Acceptance of explanation from W.H. Moore.

At the Same time, I have also to inform you, in reply to the Concluding part of your letter in which you request permission to refer the Statement of your duties to the Home Government, unless His Excellency will invite the Judges to make Some equitable division of the Labors of the Law Department, that, having found it absolutely necessary for the Public Service and for the Credit of the Crown Lawyers themselves to make a division of their respective duties, His Excellency directed that all those, which properly belong to an Attorney, Should be performed by the Crown Solicitor, and that He expects you to discharge them to the best of your ability, so long as you hold your present office. It is not His intention to make any further reference to the Judges on a Subject with which He has already trespassed so much on their time and patience; but he will endeavour to Save them from further annoyance and trouble, and the public from inconvenience and expense, by continuing the arrangement which He has found it necessary to make on the part of Government, in respect to the performance of the Law Business of the Crown. It is open to you to prefer to the Secretary of State any objection you may have to that arrangement; but I am directed to inform you that, in forwarding it, His Excellency will feel it incumbent on him to point out the necessity of giving to the Crown Solicitor that share of the Law business of the Crown, Criminal and Civil, which is properly discharged by an Attorney.

Division of duties of law officers.

His Excellency further Commands me to inform you that He will not Stop to notice the deviations from propriety of Style into which you have fallen in observing upon the arrangements of this Government, and upon the representations which you Suppose have been made to Him touching your Conduct by the Attorney General, further than to remark that they are not in any way Calculated to impress Him with the conviction that you have at all times acted with that zeal for the Public Service, and with that proper respect and Submission to the Head of your Department, which are expected of you.

Style adopted by W. H. Moore in letter.

I have, &c.,

ALEXR. MCLEAY.

1834.
24 Jan.

[Enclosure No. 8.]

[1] ATTORNEY-GENERAL KINCHELA TO COLONIAL SECRETARY
MACLEAY.

Sir, Attorney General's Office, 10th January, 1834.

Transmission
of letter from
W. H. Moore.

Refusal by
J. Kinchela
to reply to
letters.

Criticism of
W. H. Moore.

I have the honor herewith to transmit to you a letter, which I received from the Crown Solicitor on the morning of the 8th instant, just before I went into Court, and which I would have transmitted to you before now, but that I was engaged in Court to a late hour on that day and yesterday; and request you will have the goodness to lay the same before His Excellency the Governor. I am Sure His Excellency will not be Surprised when I state that I have not answered this letter, no more than Mr. Moore's former letter of the 7th of November last, which I transmitted to you to be laid before the Governor, as I could not think of holding a correspondence with a person, the Style of whose Letters is unsuited to my character either as His Majesty's Attorney General of this Colony or as a private individual. As to verbal communications on official business, I have also declined that as far as possible, as Mr. Moore's memory appears to be Somewhat forgetful; and, in case that Gentleman Should forget or misapprehend a verbal communication, I would not wish that a Statement of particular official details Should depend upon the recollection of the Crown Solicitor or myself; if Mr. Moore would pay attention to your letter to him of the 5th August last, wherein his duties as Crown Solicitor are particularly defined and Specified, he would require little directions from me as to the general business of his Department, and as to the particular trials to be brought on every day during the Sittings of the Court. I have regularly given him written instructions every previous evening that he might have the prisoners brought up, the Witnesses in attendance and the briefs for the Solicitor General; those instructions, of which I did not heretofore keep Copies, I am now obliged to enter in a book, as questions may hereafter arise on the Subject of directions given to the Crown Solicitor in cases where he may not have kept my written instructions or may not recollect that such directions had been given.

As to the assistance derived from Mr. Moore during the present Sessions, either by the Solicitor General or myself, the Solicitor General or their Honors the Judges who presided will be enabled to inform His Excellency.

As it may be necessary for me at some future period to have Mr. Moore's Letters to me in my possession, I request you will have the goodness to return to me the above original letter, as also the original Letter of the 7th of November last, transmitted to you in my letter of the 8th of that Month.

I have, &c.,
JOHN KINCHELA.

[2] MR. W. H. MOORE TO ATTORNEY-GENERAL KINCHELA.

Sir, Tuesday Evening, 7 January, 1834.

Refusal by
W. H. Moore to
prepare briefs.

I have already represented to you the utter impossibility of my preparing the totally useless Copies of the Depositions, which you are pleased to call Briefs, in the Cases now about to be brought before the Court; but, as you will not hear me and refuse to give me any Answer whatever to my Verbal communications on the

Subject, I feel myself compelled to lay it before you in writing. Ten (10) Sets of the depositions, in cases which you this Morning pretended you understood, had been prepared and were ready for yesterday, you knew were never laid before me until Six O'clock in the Evening of Saturday. I had hoped in the course of yesterday and to day to have made some progress in the preparation of them by tomorrow or thursday; but, as I have both these days been employed at your especial Call and Commands in the fourfold Capacity of Common Errand boy about you and the two Courts, of common Constable to enquire at the door and report when the Witnesses arrive, of attending the Court as Counsel in two cases yesterday, and in part of two to day, In addition to the other duties which have been assigned to me as Crown Solicitor in issuing Subpœnas, giving Notices of trial to prisoners and Witnesses, Certificates of their attendance and of all convictions and Discharges, as well as the entry of them in the books and on the proceedings, you must know that you are only heaping upon me impossibilities for no other purpose than that of endeavouring to raise some cause of complaint against me, I do therefore beg you will inform me in writing, as you refuse to do so verbally, what part of these duties I am to perform. Unless I am Spared from attending the Court and running of Errands, it is impossible I can be in the office copying the Depositions, which Solely, in consequence of your misunderstanding with the Solicitor General respecting your respective duties and not from any matter of necessity, has become a point on which you both so tenaciously Stickle.

Whatever you think most necessary or require of me, I am ready to perform and therefore request you will instruct me accordingly.

I am, &c..

W. H. MOORE.

[Enclosure No. 9.]

COLONIAL SECRETARY MACLEAY TO MR. W. H. MOORE.

Colonial Secretary's Office,

Sydney, 18th January, 1834.

Sir,

I have received the Commands of the Governor to inform you with reference to my letters of the 9th and 29th November last, that His Excellency regrets to find that the admonitions, which were therein conveyed to you by His direction, had so totally failed of effect, and that another complaint from the Attorney General of your disrespectful conduct towards that officer should have been now brought before Him. The Attorney General has forwarded a letter addressed by you to him, in which His Excellency observes not merely a total want of that respect which is due by the Crown Solicitor towards the official head of his Department, but a direct charge upon the Attorney General of low and base dissimulation, amounting in effect to falsehood. It is quite evident that the business of the Crown cannot be carried on with any prospect of success conjointly by persons in the Situation in which your last letter has placed Mr. Kinchela and Yourself. The Attorney General Cannot be expected to communicate with a person, who has so grossly insulted him by giving utterance to the charge just referred to, and by the general disrespectful tenor of the letters addressed to him by you on this and on former occasions. Nor is it likely that you will act efficiently and Zealously under the Instructions of a person, whom You have thought fit to Stigmatize in So improper a manner.

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Refusal by
W. H. Moore to
prepare briefs.

Censure on
W. H. Moore.

1834.
24 Jan.

Under these circumstances, His Excellency has no other course left to pursue with a view to the due discharge of the Law Business of the Crown in this Colony, than to remove you from a Department in which you have more than once treated your superior with Such marked disrespect.

Suspension of
W. H. Moore.

I am therefore directed to acquaint You that your further employment as Crown Solicitor in this Colony is dispensed with, and that His Excellency will immediately apply to the Secretary of State to Signify His Majesty's pleasure as to another appointment. Your Salary will accordingly cease from this date.

I have, &c.,
ALEXR. MCLEAY.

GOVERNOR BOURKE TO RIGHT HON. E. G. STANLEY.

(Despatch No. 8, per ship Royal Admiral; acknowledged by right hon. T. Spring Rice, 26th October, 1834.)

Sir,

Government House, 24 Jan., 1834.

Proposals by
judges *re* clerks
in supreme
court.

I have the honor to transmit herewith for the consideration of His Majesty's Government two communications from the Judges of this Colony, the one in favor of the augmentation of the Salaries of the Clerks of the Supreme Court to the extent of £100 in addition to that of the first, and of £50 per annum in addition to that of the Second, and the other requesting that each Judge may be provided with a Clerk at a Salary of £150 a year.

Under all the circumstances stated in these letters of the Judges, I think their proposals have not been made without that due caution and deliberation, which have been inculcated by the frequent communications of His Majesty's Government enjoining a rigid economy in every public Department.

With respect to the Clerks of the Supreme Court, I can bear testimony to the constant and arduous nature of their duties, more particularly those of the first Clerk. With respect to the proposal of Clerks to be allowed to the Judges themselves, I believe it to be quite impossible for them to perform the duties of their office without such assistance; and it rests with His Majesty's Government to determine whether this assistance shall be supplied to them by the Public or paid for by themselves in reduction of the Salaries, which they receive for their own labours.

I know that these are exceedingly weighty, and that all of the Judges are frequently suffering from attacks of illness brought on by undue application to business.

I have, &c.,
RICHD. BOURKE.

[Enclosures.]

[Copies of these letters will be found in a volume in series IV.]

GOVERNOR BOURKE TO RIGHT HON. E. G. STANLEY.

1834.
24 Jan.

(Despatch No. 9, per ship Royal Admiral; acknowledged by right hon. T. Spring Rice, 15th November, 1834.)

Sir, Government House, 24 January, 1834.

Having received a communication from the Judges, which, though called for incidentally only by some observations made from the Bench upon the manner in which a particular case was brought forward for Trial, enters at some length into a variety of matters affecting the administration of Criminal Justice in the Colony, I deem it right to transmit a Copy of such communication for the consideration of His Majesty's Government. It will not be expected of me to comment at any length upon a subject so fully treated of by Personages of so much experience in all its details. I will only remark that a great many of the evils, of which they complain, arise from the absence of Circuit Courts in this Colony. I have already laid before the Secretary of State the necessity of the establishment of these Courts in this Colony, and solicited an order of the King in Council to enable me to accomplish the object. The Despatch on this subject is dated the 6th February, 1832, to which I have not yet had the honor of a reply.

Transmission of letter from judges *re* administration of criminal justice.

I fully agree with the Judges in the advantage that would be derived from appointing professional persons to the Offices of Police Magistrates in the Colony; and the experience, I am acquiring of its affairs, renders it more apparent to me now than formerly that the appointment of several Police Magistrates cannot with propriety be dispensed with, if the numbers of Convicts continue to be augmented by numerous arrivals from Great Britain. There are not, however, professional persons to be found within the Colony to fill these places, and perhaps the Salaries, which have hitherto been paid, will not tempt qualified persons in Britain to seek such employment here. The Salaries to the Stipendiary Magistrates in the Country Districts vary from £300 to £150 with a House, this low rate having been introduced upon the appointment of Military Officers to such employments, who, holding at the same time their Military pay, are the better able to subsist upon small civil allowances. It will be for His Majesty's Government to consider the amount of Salary, which they would direct to be issued to any professional person, who might be sent out from England to hold the place of Stipendiary Magistrate in the Colony. If capable persons can be procured at the rate of £300 a year, I should consider the money well bestowed. But I need hardly observe that none but persons qualified both by character and attainments should be sent out.

Approval of proposals *re* police magistrates.

Salaries of stipendiary magistrates.

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If the establishment of Courts of Requests should be adopted upon the footing, recommended in my despatch of the 30th October, 1832, No. 110, these persons might fill the place of Commissioners without any additional remuneration.

Difficulty in
nominations
to vacancies
from England.

One great difficulty, however, presents itself in this arrangement, namely, that of inducing persons to come out without a certainty of immediate employment. Upon a vacancy occurring, appointments cannot conveniently be kept open until a nomination shall be made from England, and a Barrister therefore, coming out with the prospect of Employment as Police Magistrate, would have to depend upon his chance of practice at this Bar whilst waiting for a Vacancy amongst the Magistracy. I see no means by which this difficulty can be wholly obviated. At the commencement indeed of such an arrangement, two or three vacancies would be found by the removal of Military Officers now holding Police appointments, which they would be under the necessity of resigning upon the departure of their Regiments to another Station.

I have, &c.,

RICHD. BOURKE.

[Enclosure.]

THE JUDGES TO GOVERNOR BOURKE.

Sir,

Sydney, 4 January, 1834.

Report by
judges *re*
remarks by
J. Dowling at
criminal trial.

In compliance with the request of your Excellency, communicated to us by the Colonial Secretary in his letter dated 20th August last, We have availed ourselves of the earliest opportunity which, from various causes of delay, has been afforded us, since the close of the late Criminal Sessions of the Supreme Court, of enquiring into the facts of the case animadverted upon by His Honor Mr. Justice Dowling, and referred to in that letter, and we have now the honor of submitting our report thereupon.

It appears that the circumstances, which occasioned the remark attributed to His Honor Mr. Justice Dowling in the Monitor newspaper, were briefly as follows:—On the 8th of August, two Prisoners named John Mahony and William Bridges were severally tried before His Honor for felony, and, after the trial had proceeded for about two hours, the Solicitor General, who conducted the prosecution, proposed to call two Witnesses whose Evidence was very material, but neither of them was in attendance. Upon Enquiry it appeared that both these Witnesses were on board of the Phoenix Hulk (where Convicts brought down as Witnesses from the Country are placed for security). The Solicitor General on his own behalf disclaimed all blame on account of the absence of these Witnesses, as he had nothing to do with the arrangements of the Criminal business in the Attorney General's Office. In consequence of the absence of the two Witnesses, the case was adjourned until they were sent for from the Hulk, which caused a delay of two hours. His Honor the Judge then remarked that there existed great neglect in the Attorney General's Office, and that he should be compelled

to make a formal complaint to Your Excellency, if the evil were not remedied. It was this remark which was copied into the Monitor Newspaper of the 10th of August last, and appears to have been correctly reported. In immediate reference to this particular case, we have enquired into the whole of the circumstances, and, although we are of opinion that the observations of His Honor Mr. Justice Dowling were called for by the occasion, yet we do not find that any blame attached Individually to the Attorney General. By the course of practice in his Office, the Attorney General furnishes the Crown Solicitor on the Evening preceding with a List of such Prisoners as are intended for Trial on the following day; and it becomes the duty of the Crown Solicitor to take all necessary measures to secure the attendance of the Witnesses, with whose names and places of residence he is or ought to be previously acquainted. The Attorney General furnished the Crown Solicitor with the List of Prisoners for trial on the 8th of August. It was the duty of the Crown Solicitor to have secured the attendance of the two Witnesses, whose absence was the cause of the delay on the trial alluded to. From the statement made to us in explanation by the Crown Solicitor, we are of opinion, after due consideration, that there was an omission in his particular Department, but not under such circumstances or of such a nature as to call for censure. The omission appears in this particular case rather to have arisen from the general want of arrangements in the criminal business of the Crown than from any particular blame attachable to the Crown Solicitor. And we think it comes within the objects of the enquiry directed by Your Excellency, as well as our duty, to submit for your Excellency's consideration our opinion that there exists an urgent necessity for revising and amending the System upon which at present the administration of criminal justice in this Colony is conducted. It has been painful to all of us, upon the occasions when we have alternately presided during the criminal Sessions of the Supreme Court, to observe the frequent hindrances and failures of justice which have occurred, and the useless expense which is improperly cast upon the Government in the administration of criminal Justice.

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Report by
judges *re*
remarks by
J. Dowling at
criminal trial.

Necessity for
reform in
administration
of criminal
justice.

1st. Persons are committed for trial, the witnesses summoned, and the Parties arraigned and tried, without due investigation into the circumstances of the alleged Offence, whereby it has happened that some, against whom there has been the Strongest presumption that they have been guilty of the most atrocious offences, have altogether escaped the punishment due to them, and that others have been charged with Offences against whom there would have appeared no grounds for the charge, had the matter been previously subjected to due investigation; and in both events a burthensome expense has been improperly cast upon the public Treasury.

Faulty
preparation of
cases for trial.

2ndly. Persons, whose offences are of such a nature that they ought either to be tried by the Magistrates in the exercise of their Summary Jurisdiction immediately, and on the Spot where they are committed, or before the Magistrates at Quarter Sessions, are committed for Trial and tried before the Supreme Court, whereby the time of that Court has been occupied in the trial of trivial cases, whilst important cases, and in which Witnesses from distant parts have been Subpœnad, remain upon the Calendar from various causes of delay untried.

Trivial cases
tried before
supreme court.

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Delays in
criminal trials.

3rdly. Great delays continually take place from the not proceeding to the trial of cases upon the Calendar upon the days appointed and for long after; from cases being brought forward in which the Crown Officers are wholly unprepared to proceed; from the cases being fixed for trial, the prisoners arraigned and pleading, and it being then for the first time ascertained that the Witnesses for the Crown are not in attendance; from prisoners receiving Notice of trial for a particular day, and being brought up before it, when their Witnesses are not in attendance; from the appointment of trials upon a day which does not allow sufficient time for the Witnesses of the Prisoners to appear. The instances of all which cases are so numerous and have so constantly happened that we have frequently found the Courts to be delayed thereby in its proceedings for several hours in a day, and have been compelled thereby to adjourn the Court in the middle of the day or at a very early hour in the afternoon and sometimes over a whole day, notwithstanding that many and important cases have remained on the Calendar untried, the appointed days for trial of which have long passed by, and notwithstanding that many witnesses for the Crown have been in attendance and complaining of the inconvenience and hardship they sustain by the cases in which they are summoned not being tried, and that Prisoners also have frequently complained that their trials are delayed against their will, and their Witnesses either detained in Sydney at an expense they cannot afford, or their testimony lost by their refusal to attend.

Detention
of persons
awaiting trial.

4thly. Persons are committed for trial and remain in Gaol for long periods. Some Witnesses are brought down from all parts of the Colony, great expense is incurred by the Public and great suffering by Individuals, and they are at last when the length of their imprisonment causes them to complain to the Court discharged without being brought to trial.

Postponement
of criminal
trials.

5thly. A vast number of persons are committed for trial, who remain for indefinite periods in the Gaol awaiting their trials; witnesses are repeatedly brought down at the public Expense from great distances, who after attending the Court for many days together are paid their expenses and dismissed, and again brought down at a further expense at Subsequent periods; prisoners are brought up for trial and sent back again to Gaol sometimes Sessions after Sessions; and a vast number of Prisoners, who ought to be tried, and who might be tried if due diligence were exercised by those entrusted with the preparation of their cases, remain untried at the end of each criminal Sessions of the Supreme Court, notwithstanding that the Sessions of the Court are fixed, and as certainly known as its terms for the conduct of civil business, and notwithstanding that each criminal Sessions of the Supreme Court is by its rules a Sessions of Gaol Delivery.

Causes of
defects.

Respecting the causes of this state of things, which is so detrimental to the public interests, and so oppressive upon Individuals who have to attend the Court as Jurors or Witnesses, but above all productive of so much cruelty to those who belong to the unfortunate class of untried Prisoners and who suffer day and night in consequence of it;

Want of
definition of
duties of
magistrates.

1st. We are of opinion that the duties of Justices of the Peace, respecting the taking of examinations, the admitting to Bail, and committing persons brought before them for trial, and for securing

the testimony and attendance of Witnesses, are not laid down with Sufficient precision; the Statute, 7 Geo. IV, c. 64, which has been adopted by the local legislature, not being in some of its provisions applicable to the Colony, and in fact not followed in practice, and not laying down the duties of Justices of the Peace So fully as Gentlemen filling that Office in this Colony require for their instruction.

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2dly. There is a great want of discrimination on the part of the Justices, in the cases of persons brought before them, in committing for trial persons whom they ought to punish summarily upon the Spot.

Want of
discrimination
in magistrates.

3dly. An error has got into practice of sending the Prisoners committed by them to the Gaol at Sydney in cases fit only for the Quarter Sessions, and who ought to be retained in the district prisons.

Erroneous
committal of
prisoners to
Sydney.

4thly. There is a great want of care in the investigation of cases before the Magistrates from which it happens that the Attorney General receives the Depositions in an incomplete State.

Faulty
investigation by
magistrates.

5thly. There is a want of a fit person in each district, who as a Stipendiary Magistrate might be expected to give his entire attention to the business of police and judicial investigation of cases preparatory to trial.

Want of
stipendiary
magistrates;

6thly. There is a want of some proper person in each district as Clerk to the Magistrates whose duty it Should be to prepare and bring cases before them, whether for summary prosecution or for investigation, to conduct preliminary examinations, and to communicate with the Attorney General.

and of clerks
to magistrates.

7thly. We bear testimony to the extreme anxiety and laborious attention which the Attorney General bestows upon the duties of his Office; but there appears to us to be an entire want of proper System and management in the Criminal Department of it, a want of due investigation of cases, of discrimination in prosecuting them, and of diligence in preparing them for trial; from the time the Depositions reach him until the Prisoners are actually arraigned a want of co-operation between him and the Crown Solicitor, of energy on the part of the latter; and unfortunately there exists a misunderstanding between them both personally, and as to their relative public duties, which greatly impedes and frequently prevents the performance of the duties of either.

Want of system
in office of
attorney-
general.

8thly. There is a want of regulation by the Supreme Court of matters within its regulation, rendering it obligatory upon the Attorney General to pursue a certain course relative to those cases he intends to prosecute before the Supreme Court, both as to the time at which Notice of trial should be given to the Prisoner, and as to the time of filing his Information, and as to the order in which the several cases shall be tried.

Want of
regulation by
supreme court.

We are further of opinion that the administration of Criminal Justice in this Colony cannot become *effective*, but by the Establishment of Circuit Courts to be holden before the Judges of the Supreme Court.

Necessity for
circuit courts;

By the appointment of a Stipendiary Magistrate in each district, possessing the requisite qualifications, who Should unite the duties of Police Magistrate and chairman of the Quarter Sessions, and who should hold a Court as often as necessary at one or more convenient places within the district.

and for
stipendiary
magistrates.

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Necessity for
competent clerk
to magistrates
and for new
system in
preparing cases
for trial.

Outline of
system proposed
for adminis-
tration of
criminal justice.

By the appointment of a professional person as Clerk to the Magistrates in each District, and by the present System of committing for trial and preparing cases for trial being entirely abandoned, and a new System organised, such parts of which as are the matters of Legislative authority alone being enacted by the Legislature, and such parts as are matters of regulation by rule of Court being made by the Judges in pursuance of their powers under the New South Wales Act. But, as some parts of such system are perhaps at present not within Your Excellency's province to create, we nevertheless Submit them to your consideration; and in the mean time earnestly recommend that so much thereof, as is within Your Excellency's power to accomplish, may be adopted; and we assure your Excellency that we on our part Shall be ready to afford to Your Excellency every co-operation in our power for the better administration of criminal justice in this Colony; and we subjoin the following outlines of the system which we would propose for this purpose, Vizt. :—

1. The times of holding the respective Courts of Quarter Sessions in each district to be certain, always preceding the time of holding the sessions of the Supreme Court, and the Courts to Sit constantly, adjourning only from day to day, and over Sundays, until all criminal cases for trial before them are disposed of.

2. The times of holding Criminal Sessions of Oyer and Terminer of the Supreme Court to be every six weeks; every second Sessions of Oyer and Terminer to be a sessions of General Goal delivery.

3. All Preliminary Examinations to be conducted before the Justices by the Clerk of the Magistrates for the district.

4. Justices committing Prisoners for trial, if the offence be clearly one fit for the Quarter Sessions, to commit them for trial before the next Court of Quarter Sessions to be holden in the district, and in all other cases to commit generally as is now done.

5. All Depositions to be forwarded or delivered as soon as taken in all cases of general commitment to the Crown Solicitor at Sydney, and in all cases of commitment for trial at the Quarter Sessions to the Clerk of the Peace for that district for the purpose of enabling them to prepare informations, and to deliver them to the proper Officer of the respective Courts at the opening of the Courts.

6. All Witnesses giving Evidence material to the case, *being free persons*, to be bound by Recognizance to give evidence at the trial of the case; Being Convicts under the Control of Government, to be detained in custody and forwarded to the proper Court at the time of trial; Convicts in private Service to be in like manner detained and forwarded, unless their Master or some one authorised by him and on his behalf will enter into recognizance for their appearance.

7. Witnesses in custody to be in all cases kept separate from Prisoners awaiting their trial, and Justices to forward in due time Witnesses who are in custody.

8. A note in writing to be given to all Parties under recognizance of the time and place of appearance being required.

9. All recognizances entered into before the Justices to be returned by them to the Registrar of the Supreme Court, or Clerk of the Peace at Quarter Sessions as the case may be, on or before the first day of the opening of the Court.

10. A Summary mode to be provided for recovering the penalty of all forfeited recognizances.

11. Upon all postponements of trial whether on the motion or application of the Crown or the Prisoner, recognizance to be renewed.

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12. The Prisoner upon being committed to be asked if he have any Witness whom he is desirous to have at his trial; and, upon his naming any such and satisfying the Justices that the Witness named is material for his defence, the same course to be adopted respecting those Witnesses as for the prosecution; no prisoner to be required to disclose the names of his Witnesses; but, if he declines to do so, the Justices to State that fact on the Depositions, and no trial to be delayed afterwards, on the ground of any witness not so named being absent, unless Sufficient time has not elapsed between his commitment and trial to allow of his subpoenaing his necessary witnesses and for their attendance.

Outline of
system proposed
for adminis-
tration of
criminal justice.

13. All Prisoners to be entitled to — days' notice of trial (to be regulated according to a Scale of distance); but no trial to be delayed, unless the Prisoner Shall, upon the arraignment and before pleading, object, and the Court find that he has not had due notice of Trial.

14. Subpœnas to be issued gratis for prisoners on their application for them.

15. All Informations for trial at any Criminal Sessions of the Supreme Court to be filed on the first day of the opening of the Court and not afterwards without leave; and all Depositions, taken in cases to be tried before the Supreme Court, to be at the same time delivered to the Registrar by the Crown Solicitor.

16. The trials of Prisoners before the Supreme Court to come on unless otherwise ordered in a certain Order to be regulated according to distance.

17. No trial to be postponed without leave of the Court and upon proof of sufficient grounds.

18. No Witness's Expenses to be allowed but by order of the Court.

By such arrangements, we conceive that many of the Chief impediments to Justice at present existing will be removed; a very great expense will be saved to the public, both by the attendance of Witnesses being ensured without the Service of Subpœnas for any but those who being subsequently discovered are not bound by recognizance to appear; and the administration of Justice will we trust become as perfect as in the present State of the Colony, without Circuits and without local courts of inferior jurisdiction, it can be rendered.

We have, &c.,

FRANCIS FORBES, C.J.

JAMES DOWLING, J.

W. W. BURTON, J.

GOVERNOR BOURKE TO UNDER SECRETARY HAY.

(Despatch per ship Royal Admiral.)

Government House,

Sydney, 24th January, 1834.

My dear Sir,

When you did me the honor last year to send me the Reports of the Committee of the House of Commons upon Secondary Punishment, you expressed a desire to have my opinion upon the subject with reference to the condition of the transported

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—
Submission
of report on
condition of
transported
convicts.

Convicts of this Colony. The subject is one of some difficulty and being anxious to avoid conveying any opinion to you that was not fully supported by the evidence of facts, I thought it advisable to defer complying with your request until time and opportunity had made me more fully master of the subject. The intimation, lately given by The Secretary of State of the intention of His Majesty's Government to classify the Convicts to be hereafter sent to this Colony by means of some sentence or arrangement passed or made in Great Britain, has induced me no longer to delay an official communication upon the condition and circumstances of Convicts in this Colony. I have taken every pains to furnish accurate information in the Despatch,* which I addressed to the Secretary of State by this opportunity, and to this I beg leave to refer you in reply to your letter of last year. I would beg leave to take the opportunity of adding that, if the state of the Law as regards transportation be correctly laid down by the Chief Justice of the Colony, some Parliamentary measure will be required to enable the Governor to carry fully into effect the intention of His Majesty's Government as lately expressed, or at least an application of the Provisions of the present Transportation Act, 5 Geo. IV, Cap. 84, directly to this Colony.

Technical acts
required for
initiation of
proposed
reforms.

For instance—

1st. An Order in Council declaring that Convicts should be kept to labor within New South Wales.

2nd. Superintendent and Overseer respectively appointed by His Majesty, and I find, by the 1 Wm. IV, Cap. 55, an Assistant Superintendent is to be appointed in a Similar manner.

3d. Regulations by the Secretary of State for the Government of the Superintendents and Overseers in respect to Scale of punishment, Scale of Diet and Clothing, Directions and limitations as to the places and other particulars respecting labor.

It should seem that the foregoing particulars require to be attended to, if Convicts are to be sent out here to be kept to hard labor in Irons upon our Public Works. I shall not take up your time by repeating here any of the details, which I have given so fully in my Despatch to the Secretary of State; but I would entreat your recommendation of my application for an additional Military force, and that you will lay before Mr. Stanley the Minute of my conference with Lords Goderich and Howick in June, 1831, when the former assented to the necessity which I expressed of an additional Military force in the Colony, if it were determined to continue to send out Convicts.

Necessity for
additional
military force.

I remain, &c.,

RICHD. BOURKE.

* Note 92.

RIGHT HON. E. G. STANLEY TO GOVERNOR BOURKE.
(Despatch No. 59, per ship Susan.)

1834.
7 Feb.

Sir, Downing Street, 7th February, 1834.

I have the honor to acknowledge the receipt of your Despatches of the dates and numbers mentioned in the margin,* Despatches acknowledged. which relate to applications for Land.

In reference to that which has been made by Mrs. Dulhunty, Refusal of town allotment for J. Dulhunty ; I concur with you in opinion that she has failed in establishing any claim to the Town Allotment which she solicits, whilst a relaxation of the Regulations in her favor would be attended with much inconvenience; and you will, therefore, intimate to her my regret that I do not feel myself at liberty to authorize her receiving as a Grant the Allotment of Land in question.

Mr. E. S. Hall's request to be allowed to hold 1,000 Acres of Land upon payment of Rent instead of completing the purchase of the same is equally inadmissible, as to comply with it would be to debar the Government from enforcing the payment of large sums due on account of similar purchases, without giving the parties the alternative proposed in the case of Mr. Hall. You will, therefore, call upon Mr. Hall to make good his purchase according to the Regulations of the Colonial Government, acquainting him that the grounds, upon which his application is founded, are not, in the opinion of His Majesty's Government, of sufficient weight to entitle him to an exception from the rule observed in other cases. and of application by E. S. Hall.

The remaining application, brought by you under my notice, is from Mr. Fotheringham for a free grant of a piece of Land on which he has erected a Patent Slip, and which he has been permitted with my sanction to rent for a Lease of 7 years. The merits of this case are very different from either of those before mentioned, inasmuch as the Trade has been much benefitted by the introduction of this machinery into the Colony. As however Mr. Fotheringham will, no doubt, reap a pecuniary advantage from the success of his undertaking, I am of opinion that, by assenting to the last of the two proposals submitted in your Despatch, that of allowing Mr. Fotheringham's present Lease for Seven years at a rent of £20 per annum to be converted into a Building Lease for 91 years, added to the facilities which you have already afforded to that Gentleman, His Majesty's Government will have assisted him to as full an extent as, under present regulations, would be expedient, or indeed as he could expect. Extended lease granted to A. Fotheringham.

I am, &c.,

E. G. STANLEY.

* *Marginal note.*—No. 58, 2d Aug., 1833; No. 61, 5 Aug., 1833; No. 65, 20 Aug., 1833.

1834.
8 Feb.

RIGHT HON. E. G. STANLEY TO GOVERNOR BOURKE.
(Despatch No. 60, per ship Susan.)

Sir, Downing Street, 8th February, 1834.

Approval of
pension for
D. Geary.

I have to acknowledge the receipt of your Despatch No. 60, 1st August last, transmitting the result of a further examination of the injuries sustained by Constable Geary in a Conflict with Bushrangers, for which he receives a Pension. In approving of the continuance of this Pension as recommended by you, I have to refer you to my Despatch of the 20th July last, No. 24, in which you were authorised to give him the benefit of this allowance so long as he might continue disabled.

I am, &c.,
E. G. STANLEY.

UNDER SECRETARY LEFEVRE TO GOVERNOR BOURKE.
(Despatch per ship Susan.)

11 Feb.

Sir, Downing Street, 11th February, 1834.

Report accepted
re assigned
convicts.

Having laid before Mr. Secretary Stanley your letter of the 19th of August last, respecting the alleged illtreatment of their assigned Servants by Messrs. Berry and Woolstonecroft, which was brought under the notice of the Secretary of State by Mr. E. S. Hall, the Editor of the Sydney Monitor, I am directed to acquaint you that the information contained in your communication is perfectly satisfactory.

I have, &c.,
JOHN LEFEVRE.

RIGHT HON. E. G. STANLEY TO GOVERNOR BOURKE.
(Despatch No. 61, per ship Susan.)

12 Feb.

Sir, Downing Street, 12th February, 1834.

Despatch
acknowledged.

I have received your despatch of the 20th of August last, No. 64, in which you forwarded to me an application from Mr. E. S. Hall for the Assignment to him of three competent Convict Mechanics, for whose services he proposes to pay a yearly sum of £18.

Problem
of disposal
of labour of
convict
mechanics.

The subject, connected with the disposal of Convict Mechanics to those, who might offer the highest price, as well as imposing a Tax upon the labour generally of this Class of Persons, has been for some time under the consideration of His Majesty's Government; and, although I am aware that there have been many objections made to this measure, and, that, when partially adopted during the administration of Sir Thomas Brisbane, it was deemed expedient to discontinue it, I am inclined to believe that, from the competition which exists for Convict labour but

more especially for the services of Mechanics, that the system of hiring the latter out to the Settlers might be again resorted to with considerable Public advantage; still however it would lead to much inconvenience to depart from the practice at present observed in assigning Convicts in compliance with any individual application; and you will, therefore, inform Mr. Hall that his request cannot in this particular be complied with.

1834.
12 Feb.

Refusal of
application
by E. S. Hall.

I am, &c.,

E. G. STANLEY.

RIGHT HON. E. G. STANLEY TO GOVERNOR BOURKE.

(Despatch No. 62, per ship Susan.)

Sir, Downing Street, 13th February, 1834. 13 Feb.

With reference to my Dispatch of the 25th of May last year, apprizing you of the consolidation of the several Agencies of the Crown Colonies, and of the appointment of two joint Colonial Agents General, I have now to inform you that an annual Contribution of Two Hundred and Fifty Pounds will be required from New South Wales for the purpose of carrying on the service in question.

Annual
payment for
agents general.

This Contribution must commence from the 1st of April last year, being the day on which the Agents General entered on their new functions.

I have, &c.,

E. G. STANLEY.

RIGHT HON. E. G. STANLEY TO GOVERNOR BOURKE.

(Despatch No. 63, per ship Susan.)

Sir, Downing Street, 14th February, 1834. 14 Feb.

I have the honor to acknowledge the receipt of your despatch No. 67 of the 21 of August, enclosing the Annual Blue Book for 1832, which reached this office on the 7th Instant. Although the date, at which this Book appears to have left the Colony, is much earlier than that at which the one for the preceding year was dispatched to this Country, I am under the necessity of again urging upon you the importance of His Majesty's Government being in possession of the Returns comprised in this Book, as soon after the close of the year as possible, and to express my hope that the transmission of the Return for the year 1833 will not be delayed beyond the month of February or March at the latest.

Despatch
acknowledged.

Necessity
for early
transmission
of returns.

I am, &c.,

E. G. STANLEY.

1834.
14 Feb.

GOVERNOR BOURKE TO RIGHT HON. E. G. STANLEY.
(Despatch No. 10, per ship Ann.)

Sir, Government House, Sydney, 14 Feby., 1834.

Request by
F. Forbes
for leave of
absence.

I have the honor to transmit a letter from the Chief Justice of this Colony, in which His Honor solicits leave to return to Europe in January next for the benefit of his health. I am quite aware that the Chief Justice has lately suffered greatly from complaints induced by the sedentary nature of his employment and the fatigue and anxiety of mind he must necessarily endure in the discharge of his arduous duty. Believing those complaints will be best relieved by the measure the Chief Justice proposes, I beg leave to submit his application for your early and favorable consideration. If I should not receive your commands to the contrary by the end of January next I propose to allow Mr. Forbes to proceed according to his request. The two puisne Judges will remain to discharge the business of the Court during the absence of Mr. Forbes. I have, &c.,

Recommend-
ation in favour
of request.

RICHD. BOURKE.

[Enclosure.]

CHIEF JUSTICE FORBES TO GOVERNOR BOURKE.

(Marked "Private official.")

Sir, Sydney, 7th February, 1834.

Application by
F. Forbes for
leave of absence
to visit
England.

I have the honor to request that your Excellency will be pleased to apply to the Right Honorable the Secretary of State for the Colonies to grant me leave of absence to return to England about the beginning of the ensuing year. The principal ground, upon which I am induced to make the present application, is the very delicate state of my health and the debility of my constitution, arising from the effects of climate and a long course of active duty in an arduous and responsible office. It will not perhaps be required of me to do more than state the ground of my application to your Excellency to confirm the fact that, for the last twelve months, I have not been able to get through the business of an entire term without serious illness. The last was so severe as to confine me for some time to my bed, and consequently to derange the business of the Supreme Courts, to the serious inconvenience of the suitors. I am advised by my medical attendant that, if I could obtain the relaxation of one whole year and a change of climate, it would renovate my constitution and enable me to resume my duties with comparative ease to myself and advantage to the public.

Under these circumstances, I am induced to make the present application to your Excellency, with a request that you will be pleased to transmit it to England by an early conveyance accompanied by such recommendation as your Excellency may deem proper to make.

I have, &c.,

FRANCIS FORBES,
Ch. Justice, N.S.W.

RIGHT HON. E. G. STANLEY TO GOVERNOR BOURKE.
(Despatch No. 64, per ship Susan.)

1834.
15 Feb.

Sir, Downing Street, 15th February, 1834.

I have received your Despatch No. 68 of the 21st August last, in which you state that you have submitted to the Legislative Council of New South Wales the inadequacy of the means at the disposal of the Government for affording Religious Instruction and Education to the Catholic Population in the Colony, and that the Council have, in consequence, voted the sum of £900 for the Salaries of Six Roman Catholic Chaplains, and a further sum of £600 towards the maintenance of Schools for Children of that Religion. I entirely concur with you in opinion that the addition of four Chaplains to the number already employed is not greater than is required by the necessity of the case. Agreeing also with you in the extreme importance attached to the selection of the Clergymen to be appointed, I have communicated upon the subject with Dr. Bramston, and I hope that no long time will elapse before they proceed to the Colony.

Increase in subsidy to Roman Catholic church.

Approval of increase of chaplains.

I have, &c.,

E. G. STANLEY.

GOVERNOR BOURKE TO RIGHT HON. E. G. STANLEY.
(Despatch No. 11, per ship Ann.)

Sir, Government House, 15 February, 1834.

I have the honor to acknowledge the receipt of the New Seal* for this Colony, mentioned in your Despatch of the 25 September last, No. 44, which shall be duly employed in the manner thereby directed.

Seal received in colony.

In obedience to your Instructions therein contained, I herewith return the old seal for the purpose of being defaced.

I have, &c.,

RICHD. BOURKE.

GOVERNOR BOURKE TO RIGHT HON. E. G. STANLEY.
(Despatch No. 12, per ship Ann: acknowledged by right hon. T. Spring Rice, 2nd August, 1834.)

Sir, Government House, 16th February, 1834.

16 Feb.

I have the honor to report for your information and approval that, in pursuance of the authority conveyed by Lord Goderich's despatch of 11th Decr., 1832, No. 144, to appoint the Revd. Henry Tarleton Styles to the next vacant Chaplaincy

Appointment of Revd. H. T. Styles as chaplain.

* Note 50.

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16 Feb.

without further instructions from home, I have accordingly appointed him to the chaplaincy of Windsor, vacated by the resignation of the Revd. Joseph Docker. The appointment took place from the 1st September, 1833.

Appointment
of H. Fisher as
agent for clergy
and school
estates.

I have further to communicate, with reference to my Despatch of 30 Sept. last, No. 76, upon the subject of the future management of the Clergy and School Estates, which reverted to the Crown upon the Dissolution of the Corporation upon certain trusts, that I have appointed Mr. Fisher, who was formerly recommended to me for employment by Mr. Hay, to be Agent to those Estates at a Salary of £150 a year, and an allowance of 5 per cent. on all sums received by him. The amount, which he will probably have to receive annually for some years, will not much exceed £1,200; and, as he must necessarily incur some considerable expence in travelling, I have allowed him the Salary over and above the percentage. I offered the appointment to Mr. Charles Cowper, who was Secretary to the Church and School Corporation; but this gentleman's health was much impaired and, having enjoyed a salary of £400 a year under the Corporation, he was not inclined to accept the inferior Salary which I thought it right to offer him.

Refusal of
appointment
by C. Cowper.

Appointment of
commissioners
of court of
claims.

Another appointment, which I take the present opportunity of mentioning, has been made in pursuance of the Act of the Governor and Legislative Council, 4 Gul. IV, No. 9, for appointing and empowering Commissioners to hear and determine upon claims to Grants of Land under the great Seal of the Colony. A Copy of the Act was forwarded by my despatch of 26 Novr., 1833, No. 89. The Commissioners I have named are:

Sydney Stephen, Esq.;
Roger Therry, Esq.;
Major Mitchell.

The two first are Barristers. The last (the Surveyor General) was appointed from the circumstance of his constant attendance on the duties of the Commission being absolutely necessary for explaining the various transactions, which have taken place in his office with reference to the subjects of enquiry.

Allowance to
commissioners.

The Commissioners are remunerated by an allowance of £6 upon every decree pronounced by them. The fees authorized by the Act will create a fund, which, if it will not cover the whole expence of the allowance to the Commissioners and of the Salary of £150 a year paid to their Clerk, will at least much diminish the charge to the Public. The Commission, as you may perceive by the Act in Council, is to subsist for 2 years only.

I am, &c.,

RICHD. BOURKE.

RIGHT HON. E. G. STANLEY TO GOVERNOR BOURKE.
(Despatch No. 66, per ship Susan.)

1834.
17 Feb.

Sir, Downing Street, 17th February, 1834.

I have received your despatch No. 57 of the 1st of August last, transmitting, with reference to a Trial for Rape, which had taken place in New South Wales, and in answer to Lord Ripon's despatch of the 30th of November, 1832, upon that subject, the copy of a Report from the Attorney General to the effect that it is not the practice in the Colony, in Indictments for Felony, to join a Count for a misdemeanor, but, on the failure of the Prosecution of the Felony, to file a second Information for the Minor offence, if the Evidence should be such as to promise a conviction; and I request that you will cause the Attorney General to be informed that this explanation is quite satisfactory to His Majesty's Government.

Acceptance of
explanation
from
J. Kinchela.

I am, &c.,
E. G. STANLEY.

GOVERNOR BOURKE TO RIGHT HON. E. G. STANLEY.

(Despatch No. 13, per ship Ann; acknowledged by right hon.
T. Spring Rice, 7th September, 1834.)

Sir, Government House, 17th February, 1834.

I have the honor to transmit herewith the Copy of a letter from Colonel Arthur, Lieut. Governor of Van Diemen's Land, containing a very pressing application for a reinforcement to the Troops under his command. The representations, which I have been compelled to make in my despatch of the 15th January last, No. 1, of the insufficiency of the Troops available for the immediate wants of New South Wales, will fully explain the necessity, under which I have found myself of declining a compliance with Colonel Arthur's request. I have nevertheless thought it due to the welfare and Security both of this Colony and of Van Diemen's Land to forward the letter of Colonel Arthur for your consideration, as an additional proof of the urgent need of an encrease of the Military force in this command, as represented in my despatch before alluded to, as well as in my prior despatch of the 27th June, 1833, No. 53. If the application contained in those Despatches has not been attended to before the receipt of this, I must again request the serious consideration of His Majesty's Government towards a matter of such vital importance to the welfare of this Colony.

Request by
G. Arthur for
increased
military force.

I have, &c.,
RICHD. BOURKE.

[Enclosure.]

[A copy of this letter will be found in a volume in series III.]

1834.
18 Feb.

GOVERNOR BOURKE TO RIGHT HON. E. G. STANLEY.

(Despatch No. 14, per ship Ann; acknowledged by right hon.
T. Spring Rice, 8th September, 1834.)

Sir, Government House, 18th February, 1834.

Transmission
of letter from
Sir E. Parry.

I have the honor to transmit herewith the Copy of a letter received from Sir Edward Parry, the Commissioner for managing the affairs of the Australian Agricultural Company, in answer to a communication addressed to him by this Government for the purpose of ascertaining in what manner the Conditions, set forth in Secretary Sir George Murray's despatch of the 21st April, 1830, relative to the maintenance by the Company of certain Clergymen of the Established Church of England were to be fulfilled. No copy of the correspondence referred to by Sir Edward Parry having been sent to the Colony, I take the liberty of laying his letter before you for your information and commands.

I have, &c.,
RICHD. BOURKE.

[Enclosure.]

SIR EDWARD PARRY TO COLONIAL SECRETARY MACLEAY.

Sir, Port Stephens, 26th November, 1833.

Proposed
maintenance
of clergy by
A.A. company.

I have the honor to acknowledge the receipt of your letter of the 23rd Instant, calling upon me, by Command of His Excellency the Governor, to provide a fund for the purposes of religion and Education, as mentioned in the Secretary of State's Despatch, dated 20th April, 1830, for the benefit of that portion of the Australian Agricultural Company's Original Selection of Land to be retained by them at Port Stephens.

In reply, I do myself the Honor to remark that the Secretary of State's Despatch above alluded to contains, in addition to the Terms to which His Excellency refers, the following very important agreement.

Agreement for
lease of clergy
and school
estates by
A.A. company.

"In order to enable the Company the better to make all or any of the before mentioned provisions, I have agreed to allow that the Company shall take the Reserve already allotted for Ecclesiastical purposes at Port Stephens, or such a part of it as shall be proportioned to the quantity of their old allotment which they may retain, and a proportionate quantity of Land adjoining the second and third locations for the same purpose, in all not exceeding the present Reserve, on a Lease for 99 Years, determinable at the option of His Majesty's Government at the end of any 21 years of that period, upon giving two years' notice to the Secretary of the Company in London. This Lease is to be executed in behalf of the Company by their Corporate Seal," etc., etc.

As the Lease of these Lands has not been made to the Company, this circumstance alone might be sufficient to justify my declining to provide the funds now called for. But I beg leave to repeat what I had the honor of stating to the Governor at a Conference with which His Excellency favored me at Parramatta, that the Agreement under which these Funds were to be provided by the Company was totally annulled by the late change in the system of disposing of Crown Lands in this Colony. The decision to this effect on the

part of His Majesty's Government was communicated by Lord Howick to the Directors of the Australian Agricultural Company on the 5th March, 1831, in the following terms:—

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18 Feb.

“That the Commissioners for Enquiry into the Revenues and Expenditure of New South Wales had presented to the House of Commons a Report recommending an abandonment of the System of retaining any Lands in that Colony under the Description of Clergy and School Reserves,” and “that, in accordance with such recommendation, His Majesty's Government had determined no longer to retain Such Land, but to put them up to Sale in the same manner as other Lands were to be sold, under the arrangements lately made in respect of the disposal of Lands in New South Wales.

Cancellation of conditions of agreement.

“The Agreement, therefore, which had been entered into with the Australian Agricultural Company to grant to them a Lease for 99 years of the Clergy and School Reserves, in consideration of their contributing certain Sums for the support of one or more Clergymen *could not be fulfilled*. No Such Lease could be granted, and, on the Other hand, the Company could not be called on for the proposed contribution of Money.”

I have, &c.,

W. E. PARRY,

Commissioner for the Australian Agricultural Company.

GOVERNOR BOURKE TO RIGHT HON. E. G. STANLEY.

(Despatch No. 15, per ship Ann; acknowledged by right hon. T. Spring Rice, 15th November, 1834.)

Sir, Government House, 21st February, 1834.

21 Feb.

In my despatch of the 24th June last, No. 7, I had the honor to inform you that I had found it necessary to suspend Mr. W. H. Moore from his employment as Crown Solicitor in this Colony. I have since received from him a letter, of which a copy is now transmitted, claiming payment of £300 a year under an arrangement made with him by Lord Bathurst in the year 1814, as set forth in His Lordship's despatch to Governor Macquarrie of the 5 July of that year, a Copy of which is also transmitted. In my despatch of the 5 December, 1833, No. 99, I intimated that Mr. Moore set up a claim to this effect, which however seemed to be virtually disallowed by Secretary Sir George Murray's decision upon the demand made by Mr. Moore in his letter of the 13th October, 1829, addressed to that Minister, to which the latter replied in his despatch to Genl. Darling of the 6 June, 1830, No. 43; Lord Goderich also, in mentioning a similar claim on the part of Mr. Garling, states, in his despatch of the 12th December, 1832, No. 145, that the claim does not appear to have been admitted.

Suspension of W. H. Moore.

Claim by W. H. Moore to annuity.

1834.
21 Feb.

Criticism of
validity of
claim.

In laying Mr. Moore's letter before you, I confess I find much difficulty in offering any opinion upon the merits of his claim. On the one hand, the agreement of Earl Bathurst to pay Messrs. Garling and Moore £300 a year on their coming out to this Colony is clearly expressed without limitation as to time or condition as to duty, unless it be that of practising as Solicitors in the Supreme Court upon their own account. In corroboration of this view of the case, Mr. Moore refers to a decision of the Secretary of State made not long after his arrival in the Colony, The particulars of which however are not now to be found among the records of this Government. He refers also to the printed Report of Mr. Commr. Bigge, an extract from which I have the honor to transmit. On the other hand, Secretaries Sir George Murray and Lord Goderich seem to deny the validity of the claim. It is doubtless unusual to grant an annuity upon such terms as these gentlemen appear to have obtained from Earl Bathurst; but, after an examination of such papers as I can find here, and the best consideration I have been able to give the subject, I do not perceive that any thing has occurred either on the part of Government or of those Gentlemen, by which their claim to £300 a year each, whilst they remain in the Colony and practise as Solicitors, has been set aside. Possibly however, in Lord Bathurst's despatch* to Governor Macquarrie, written as I should suppose in the year 1819, directing the payment of arrears to Mr. Moore, the footing upon which these gentlemen were in future to stand may be declared, and the payment of the annuity disallowed. This document I have stated is not to be found here, but a Copy probably exists in Downing Street. I have replied to Mr. Moore's letter by informing him that, considering the adverse decision of Sir George Murray upon Mr. Moore's former demand, I do not think myself authorized to issue to him the annuity he claims without Instructions to such effect from the Secretary of State. I have therefore to beg your commands in this matter. I have further the honor to inform you that I have named Mr. David Chambers, a Solicitor of respectability, practising in the Supreme Court to discharge the duty of Crown Solicitor until further notice. I have found it absolutely necessary to allow him the full Salary of £500 a year, as received by Mr. Moore previously to his suspension. No professional gentleman of Character or competent acquirements could be expected to take this office with the duties now attached to it at a lower rate of remuneration.

I have, &c.,

RICHD. BOURKE.

Nomination of
D. Chambers as
crown solicitor.

* Note 93.

[Enclosure.]

1834.
21 Feb.

MR. W. H. MOORE TO GOVERNOR BOURKE.

Sir,

King Street, 14th February, 1834.

I have the honor to transmit to your Excellency a copy of the Despatch brought by me to this Colony, which I received from Earl Bathurst previous to my departure from England. Your Excellency will observe, by that communication to the then Governor of the Colony, that the Salary of Three hundred pounds per Annum which I received was paid to me from the Colonial Funds as an inducement to my giving up a respectable practice in London, and not by way of remuneration for any Services I might be called upon to perform. A misunderstanding on the point occurred not long after my arrival in the Colony when, on reference to His Majesty's Secretary of State, which was made by the late Governor Macquarie and Myself on the Subject, that view of my appointment was confirmed and the arrears of that Salary, which had become due to me pending the reference, were paid to me, although I had never at that time been called upon to perform any official duties whatever.

Agreement with
W. H. Moore re
annuity.

The Commissioner of Enquiry Mr. Bigge also took the Same view of my appointment, both during the time he was in the Colony and Subsequently when he made his report to the Committee of the House of Commons on the State of the Colony in the Year 1818.

Opinion of
J. T. Bigge.

After my acceptance of office the Salary attached to it was for many Years kept entirely distinct from the Salary of Three hundred Pounds per Annum first alluded to; and, although after a time the two Salaries (by what circumstance I know not) had become Consolidated into one in the Colonial Accounts, they have been as far as I can learn always kept distinct in the Parliamentary Estimates.

Methods of
payment of
salaries.

Under these Circumstances, I submit to Your Excellency that the Suspension of my Salary as far as relates to the Three hundred pounds per Annum is an injustice towards me, as I am Still in the Situation in which I was in the Colony for which that Salary was directed to be paid to me; and I humbly Conceive that, as I performed the duties of the various Offices of Attorney General, Solicitor General, and Crown Solicitor for several years for the additional Salary of Two hundred pounds per Annum only, that that Amount is fully adequate now to the performance of those duties, which are so much more divided than when I had the honor to hold those offices.

Protest against
suspension of
annuity.

I have, &c.,

W. H. MOORE.

[Sub-enclosure No. 1.]

[This was a copy of Earl Bathurst's despatch, dated 5th July, 1814; see page 268, volume VIII.]

[Sub-enclosure No. 2.]

EXTRACT FROM COMMISSIONER BIGGE'S REPORT.

In the year 1819, five Solicitors practised before the Supreme Court: two of them, viz., Mr. Garling and Mr. Moore, were appointed by your Lordship to proceed to New South Wales in the year 1814, and the former received a Salary of £300 per annum from the period in which he ceased to act as Judge Advocate; and Mr. Moore received, in the month of November, 1819, the arrears of his Salary that had been suspended from the 23rd February, 1816.

Report by
J. T. Bigge.

1834.
24 Feb.

GOVERNOR BOURKE TO HON. J. STEWART.
(Despatch No. 6, per ship Ann.)

Sir, Government House, 24th February, 1834.

Referring to my former communications on the insufficient demand for Treasury Bills in this Colony, I suggested to the Secretary of State in my Despatch of the 2nd December, 1833, as a partial remedy that persons, who have claims on the Colonial Treasury in this Colony under arrangements made in England for the passage of Emigrants or otherwise, should be obliged by the terms of their agreement to receive payment here in Treasury Bills. I have frequently an opportunity of paying demands of this nature in such Bills by the consent of the parties, provided they are not charged with the usual premium of one and a half per cent. Conceiving it desirable to adopt such means of recruiting the Military Chest even at the loss of the usual premium, I have directed, as you will see by the enclosed Copy of a letter from the Military Secretary to the Deputy Commissary General that all Bills required of him by the Colonial Treasurer shall be in future drawn at Par. It is obvious that, if those Persons who have claims on the Colonial Treasury refuse to receive Bills upon which premium is charged, it would be improper to subject the Colony to the expence in a transaction having no other object than to replenish the Military Chest. I propose therefore to continue this arrangement so long as the chest requires to be recruited, unless I shall be otherwise directed by the Lords Commissioners of His Majesty's Treasury. I have, &c.,

RICHD. BOURKE.

[Enclosure.]

CAPTAIN HUNTER TO DEP. COMMISSARY-GENERAL.

Sir, Mil. Sec. Office, Sydney, 6th February, 1834.

His Excellency the Governor for the purpose of recruiting the Military Chest having been pleased to order that all demands of any considerable amount on the Colonial Treasury shall, when practicable, be paid by Bills drawn by you on the Lords Commissioners of His Majesty's Treasury for which the Colonial Treasurer has been instructed to Lodge the money in the Military Chest; but, as the persons having demands on the Colonial Treasury refuse to allow in account the premium of one and a half per cent. heretofore charged on such Bills, and as it appears to His Excellency the Governor to be improper that the Colony should incur any loss in thus endeavouring to facilitate the Military Branch of the Service; I am directed by the Major General Commanding to inform you that all Bills required of you by the *Colonial Treasurer*, from the 23d of last Month, are to be drawn at Par, and that the amount of premium already charged since that date is to be immediately repaid to the Treasurer.

I have, &c.,

W. HUNTER, A. Mil. Secy.

Method proposed for providing funds for commissariat.

Treasury bills to be drawn at par.

Instructions to deputy commissary-general.

GOVERNOR BOURKE TO RIGHT HON. E. G. STANLEY.
 (Despatch No. 16, per ship Ann; acknowledged by
 earl of Aberdeen, 20th December, 1834.)

1834.
 25 Feb.

Sir, Government House, 25th February, 1834.

Referring to my Despatches of 2nd December last, No. 94, and 21st January last, No. 5, with their enclosures, I have the honor to transmit herewith the Copy of another letter to the Secretary of the Treasury, reporting that to induce Parties having demands upon the Colonial Treasury to receive payment in Bills on the British Treasury and thereby enable the Colonial Treasurer to pay the amount into the Military Chest towards the supply of its present deficiencies, I have directed the Deputy Commissary General to issue all such Bills without the annual charge of 1½ per cent. per annum.

Treasury bills
 to be drawn at
 par.

I have, &c.,

RICHD. BOURKE.

[Enclosure.]

[A copy of this letter will be found on page 378.]

GOVERNOR BOURKE TO RIGHT HON. E. G. STANLEY.
 (Despatch No. 17, per ship Ann.)

Sir, Government House, 26 February, 1834.

26 Feb.

I have the honour to transmit herewith the Minutes of the Executive Council upon the case of two Convict women, who have been found guilty in the Supreme Court of the Murder of Captain Waldron* to whom they were assigned.

Minutes re
 commutation
 of death
 sentences.

The circumstances of the case, which are fully explained in the enclosed minutes and the Judge's notes, which accompany them, have induced the Council to recommend that the Sentence of death be commuted to imprisonment with hard labor for three years in which recommendation I fully concur and await the commands of His Majesty upon the subject.

I have, &c.,

[Enclosure.] RICHD. BOURKE.

[These minutes will be found in a volume in series II.]

GOVERNOR BOURKE TO RIGHT HON. E. G. STANLEY.
 (Despatch No. 18, per ship Ann; acknowledged by right hon.
 T. Spring Rice, 4th August, 1834.)

Sir, Government House, 1 March, 1834.

1 March.

Having occasion by the present opportunity to transmit two Memorials upon the subject of claims to grants of land, which have been rejected by me, and upon which I do see that there can be a second opinion, I think it right, in consequence of

Reasons for
 transmission of
 memorials re
 claims to land.

your having, in the Despatch of the 15th April, 1833, No. 3, expressed an unwillingness to receive such Memorials, to explain that they are transmitted in conformity to the Regulations to which publicity was given, in pursuance of Lord Goderich's despatch of 3rd March, 1832, and from which I do not feel that I am authorised to deviate without express instructions, to which the same publicity should be given as to the Regulations, which would be thereby altered, it being understood by the Colonists, as expressed in the Public despatch, that it is the Duty of the Governor to transmit their appeal against any decision of his to the Secretary of State.

In submitting the foregoing explanation, I beg it may be understood that I am by no means desirous that any change should be made in the existing Regulation, which is I believe gratifying to the Colonists, tho' it may add to the labor of this Government as well as to that of H.M.'s Government at Home.

I have, &c.,

_____ RICHD. BOURKE.

GOVERNOR BOURKE TO RIGHT HON. E. G. STANLEY.

(Despatch No. 19, per ship Ann; acknowledged by right hon. T. Spring Rice, 11th September, 1834.)

Sir,

Government House, 1 March, 1834.

I have the honor to forward you herewith a letter addressed by Mr. Henry Dixon Owen of this Colony to the late Secretary of State Lord Goderich, on the subject of a Grant of Land to which he lays claim. This has been done at the repeated request of the writer, by whom I had supposed the matter to have been dropped on his being informed by my direction that I could not recommend his claim or hold out to him the smallest hope of success. The following appear to be the facts. Mr. Owen claims on two grounds, the one a Ticket of occupation granted to his Brother John Cramer Owen by Sir Thomas Brisbane, the other an alleged promise of Grant to himself by General Darling.

With regard to the claim derived thro' his brother; it appears that the applicant arrived in New South Wales with his Brother in 1822; but, the latter being about to return immediately to England, Sir Thomas Brisbane refused him a grant, but allowed him a Ticket of occupation for 2,000 Acres, which would permit him (according to the letter of the Colonial Secretary apprising him thereof) "to receive that location for his Brother in case he should return in any reasonable time to New South Wales." Mr. J. C. Owen died without returning, and the Land was afterwards granted to another person.

1834.
1 March.

Reasons for
transmission of
memorials *re*
claims to land.

Claim of
H. D. Owen
to land grant.

Details
of claim.

With regard to the claim founded upon an alleged promise to the applicant himself, it appears that, on General Darling negating the claim set up by him on the former ground, the usual blank form of application was sent him to be filled up for an additional grant on his own account. This he did; but, in the interim, the Regulations prevented additional land being given, of which he was apprised, and the matter there rested.

1834.
1 March.
Details
of claim.

I have, &c.,

RICHD. BOURKE.

[Enclosure.]

[A copy of this letter is not available.]

GOVERNOR BOURKE TO RIGHT HON. E. G. STANLEY.

(Despatch No. 20, per ship Ann; acknowledged by right hon. T. Spring Rice, 11th September, 1834.)

Sir, Government House, 1st March, 1834.

Having refused to allow a grant of Land to Mr. Thomas Heathe White under circumstances, which in my opinion gave him no claim to Land in this Colony, he has requested me to lay before you the Memorial herewith transmitted.

Refusal of
land grant to
T. H. White.

I have, &c.,

RICHD. BOURKE.

[Enclosure.]

[A copy of this memorial is not available.]

RIGHT HON. E. G. STANLEY TO GOVERNOR BOURKE.

(Despatch No. 68, per ship Susan.)

Sir, Downing Street, 3d March, 1834.

Much embarrassment has been experienced by His Majesty's Government in considering the subject of Transportation to the Australian Colonies, from the want of precise information as to the numbers and distribution of the Convicts and the expences of their superintendance and maintenance. I have, therefore, to desire that, in the Blue Books for 1833 and for succeeding years, you will insert a Return shewing the following particulars:—

3 March.
Want of
precise
information
re convicts.

1. The total number of Convicts in the Colony during the year, and their distribution, whether in private Service, at the Penal Settlements, etc.
2. The total expence incurred during the year for the Superintendance, Lodging, Clothing, and maintenance of Convicts, stating the average expence for each Convict so maintained by the Public.

Returns
required.

1834.
3 March.
Returns
required.

3. The number of Convicts at each of the Penal Settlements, and the total expence of each Penal Settlement.
4. The number of Convicts in the Chain Gangs and the total expence of those Gangs, including Tools, Superintendance, etc.
5. The number of Convicts in the Road, Surveyor, Engineer or other Department and the total expence of those Convicts, separating the Departments.
6. The expence incurred for repairs of existing Buildings, appropriated to the confinement and accommodation of Convicts, or for erecting additional Buildings distinguishing the same.

The accuracy of these Returns is obviously so essential that I consider it necessary only to express my reliance on your using your best endeavours for ensuring that important result, as well as their punctual transmission to this office.

I am, &c.,

E. G. STANLEY.

GOVERNOR BOURKE TO RIGHT HON. E. G. STANLEY.

(Despatch No. 22, per ship Ann.)

Sir,

Government House, 3rd March, 1834.

In my despatches of the 30th Sept., 1833, No. 76, and 1st October, 1833, No. 77, upon the subject of the Church and School Establishments for this Colony, I did not advert to a Petition* to the Governor and Legislative Council agreed to at a Public Meeting held in Sydney in July last. The Council was at that time sitting, and it was proposed to present the Petition shortly after the meeting was held; but, owing to circumstances with which I am unacquainted, it was not brought to me until long after the Council had adjourned. It will be presented however at the Session in May next.

In this Petition, you will perceive that the expenditure of the Church and School Corporation and the appropriation of so large a proportion of the money raised by Church Establishments to the exclusive service of the Church of England, whilst other Sects of Christians are so poorly provided for, is particularly adverted to. I have reason to believe that the sentiments expressed in the paragraph of the Petition, to which I refer, are shared by a very considerable body of the Colonists.

I have, &c.,

RICHD. BOURKE.

Petition to
legislative
council *re*
church and
school
establishments.

* Note 95.

GOVERNOR BOURKE TO RIGHT HON. E. G. STANLEY.

(Despatch No. 23, per ship Ann; acknowledged by right hon.
T. Spring Rice, 12th September, 1834.)

1834.
3 March.

Sir, Government House, 3rd March, 1834.

I have the honor to transmit a Minute of the Executive Council detailing the case of Mr. James Munn, who has claimed compensation from this Government for certain Land, of which he was authorized to take possession in 1824, but from which he has been lately ejected at the suit of one Arthur Martin. I beg leave to refer you for a short but correct statement of the case to the accompanying Minute, at the close of which you will find that the Council recommended that the sum of £1,747 10s. be paid to Munn as compensation. Not thinking myself authorised to pay so large a Sum from the Revenues of the Crown without the previous Sanction of His Majesty's Government, I informed the Council that the case should be reported to the Secretary of State for the Colonies.

Compensation proposed for J. Munn by executive council.

It may be questionable whether the Government should be called on to pay any compensation in such cases. It may be urged that the Grant to Munn was a pure gift, and, tho' he has received less than the Government of 1824 intended to give him, yet he still retains a valuable property obtained from the bounty of the Crown. On the other hand, it is insisted that a valuable consideration has been paid by the Settler in transferring his Family and Capital to the Colony, and that the Government is bound to make good the location on which he was induced to place himself. The latter argument has been held to be of most weight; and, accordingly in former times, Land has been usually granted in compensation of losses and grievances of a much less important description than those which form the subject of Mr. Munn's claim. There is now but little vacant Crown Land along the Shore of Sydney Cove or Darling Harbour; and I cannot recommend that any of it should be granted to Munn, as he is still left with what at this day is termed a valuable Water side allotment. To compensate him in vacant Crown Land at 5s. an Acre in a Country District to the amount of £1,747 10s. would require 7,000 Acres. I am therefore disposed to think that, as it would be hard on this claimant to deny him a compensation which has been afforded to so many others with less urgent claims, it will be most advisable to grant the money recommended by the Council to be paid out of the Land Revenues of the Colony.

Problem of compensation.

Scarcity of crown lands in Sydney cove and Darling harbour.

Proposed compensation by money payment.

It may be right that I should add in explanation of the error into which the Government appears to have fallen in granting to Munn the land, which had been already given to Martin, that

Error in granting land to J. Munn.

1834.
3 March.
Proofs of claim
of A. Martin.

no record appeared in the Surveyor General's Office of any Grant to the latter, and that the proof produced in the trial was a paper on which Governor Macquarrie's name only remained legible, and evidence of former possession by Martin given by Persons of very doubtful character. The haste, with which settlers were formerly put into possession of Land without any formal instrument, frequently by the mere verbal order* of the Governor, and the total want of arrangement in the Surveyor General's office, until the accession of the present Surveyor General, have led to much confusion and litigation, to which I do not anticipate a final Stop, until the labors of the Commissioners of Claims appointed under the late Act of Council* shall have enabled the Government to give a formal Deed of Grant to all those who are justly entitled.

I have, &c.,
RICHD. BOURKE.

[Enclosure.]

Laxity in
granting
possession
of land.

Minute of
executive
council *re*
compensation
for J. Munn.

EXTRACT from Minute No. 3 of the Proceedings of the Executive Council on the 21st January, 1834.

IN reference to the proceedings on the 10th June, 16th September and 27th November last, the Council now resumed the consideration of the claim of Mr. James Munn to compensation for a certain piece of land in Darling Harbour (being part of the allotment promised to him by Sir Thomas Brisbane) of which possession has been given by the Sheriff to one Arthur Martin, by order of the Supreme Court, the piece in question having been decided by verdicts in that Court to have been previously granted to that individual.

It appears that, in 1824, Mr. Munn applied to Sir Thomas Brisbane and received authority from him to take possession of the allotment in question, the following description of which was furnished by the Director of Public Works in 1831, viz. :—

“Bounded on the East by Spark's allotment, bearing North 25° East 405 links; on the North by Argyle Street to the corner of his own wall bearing West 15° 30' North 517 links; by that Wall to the South corner of the road leading to Bettington's allotment 143 links; on the West by Bettington's allotment bearing South 4° 30' East 314 links; and on the South by the Waters of Darling Harbour.”

Mr. Munn continued to occupy this allotment until the year 1832, when an action of ejectment was brought against him by Martin in respect to the part above alluded to, and a verdict awarded in favor of Martin. A new trial was subsequently granted in 1833 and a similar verdict given by the Jury. Mr. Munn at this period applied to the Government for his Deeds of Grant, which were however refused in consequence of the question having been already decided in the Supreme Court; and Mr. Munn thereupon applied for compensation, not only for the portion of land of which he had thus been deprived, but for the costs and expences which he had incurred in defending his right to the same.

His Excellency the Governor now laid before the Council a letter from the Surveyor General, in which he reports that the extent

* Note 96.

of land taken from Mr. Munn and given to Martin is one acre two roods and eleven perches; the value of which at the minimum rate of £1,000 per acre is £1,568 15s.; and that the portion remaining in Munn's possession is one acre and thirty two perches, the value of which at the same rate is £1,200.

1834.
3 March.

Minute of executive council *re* compensation for J. Munn.

His Excellency also laid upon the table a letter from the Collector of internal revenue giving the particulars of the Sale by public auction on the 20th instant of a part of the land recovered by Martin from Munn, divided into 24 allotments; from which it appears that the whole averaged at the rate of £1,165 per acre.

The Council after an attentive consideration of the subject were of opinion that Mr. Munn was entitled to compensation for the portion of land of which it appears he has been deprived; and, as there is every reason to believe that the Sale alluded to was a bona fide transaction, and exhibited the real value of the ground at this day, recommended that he should receive the sum of £1,747 10s., being at the average rate realised for the whole, namely £1,165 per acre.

The Governor stated that he would forward the decision of the Council for the consideration of the Right Honorable the Secretary of State.

A true Extract:—E. DEAS THOMSON, Clk., Col.

[Appendix No. 1.]

THE MEMORIAL OF JAMES MUNN OF SYDNEY, SHIP BUILDER.

To His Excellency Major General Richard Bourke, Captain General and Governor in Chief of the Territory of New South Wales and its Dependencies and Vice Admiral of the Same, etc., etc.

Memorial of J. Munn soliciting compensation *re* land grant.

Most respectfully Sheweth.

That your Memorialist emigrated to this Colony early in the Year 1824 for the purpose of commencing and carrying on Business as a Ship Builder, and, shortly after his arrival in Sydney, applied to His Excellency Sir Thomas Brisbane, the then Governor of the said Colony, for a Town allotment of Land suitable for the purposes of your Memorialist's said Trade.

That an allotment of Land at Cockle Bay, Sydney, having been pointed out to your memorialist by the late Mr. Oxley, then Surveyor General of the said Colony, as unlocated, your Memorialist by letter dated the 10th of August, 1824 (accompanied with a Sketch or plan of the land shewing the extent thereof) applied to Sir Thomas Brisbane that the same might be given to your Memorialist, which was accordingly acceded to.

That, in pursuance of Sir Thomas Brisbane's Order to Mr. Oxley, the allotment of ground at Cockle Bay, which your Memorialist had applied for, was duly measured on the 2d of September, 1824, and your Memorialist thereupon put into possession of it.

That shortly afterwards your Memorialist built a house and made very great improvements at a considerable expense on the Land for the purposes of his trade; and, in the month of October, 1825, applied for a grant thereof whereupon Mr. Oxley was ordered to report upon your Memorialist's application. William Lithgow, Esqr., M.C., the then Private Secretary, by letter dated 19th of November following, stated that he had received the Commands of His Excellency the Governor to acquaint your Memorialist that a Grant thereof would be made to him.

1834.
3 March.
Memorial
of J. Munn
soliciting
compensation
re land grant.

That your Memorialist remained in the undisturbed possession of the Said Land until the month of January, 1832 (being a period of about Eight Years) when one Arthur Martin claimed the greater part of the same as being his property, and afterwards commenced an action of ejectment against your Memorialist in the Supreme Court of the said Colony for the recovery thereof, which your Memorialist defended in order to try the right of the said Arthur Martin thereto.

That the said cause was tried on the 22d and 23d of October last before His Honor Mr. Justice Dowling and a Special Jury, when a Verdict was found for the said Arthur Martin.

That your Memorialist applied for and obtained a new trial of the said cause, when their Honors the Judges, in granting leave for the same, declared that it was clear law that Government could at any time resume possession of land which had not been alienated by Grant under Seal from the Crown, and also stated that the principal point for the Jury to try was, if Governor Brisbane had resumed the land or not, and, if they found in the affirmative, that Your Memorialist would be entitled to a Verdict.

That the new trial took place on the 1st and 2d Days of May before His Honor Mr. Justice Burton and a Special Jury, on which occasion his Honor informed the Jury that, if they found that the holding of Martin had been a mere permissive occupation and the land had been resumed by Sir Thomas Brisbane, then your Memorialist would be entitled to a Verdict; but that, whatever the Verdict might be, Your Excellency could give the Grant of the said Land to whichever party your Excellency might think proper, or even to a third party.

That, notwithstanding the Direction of His Honor and the clearest evidence of a resumption of the land by Sir Thomas Brisbane and the giving thereof by him to Your Memorialist, the Jury found a verdict for the Plaintiff.

That the said Arthur Martin on both of the said trials proved by parole evidence (of the lowest classes of society) that Governor Macquarie had caused that portion of the land, marked A in the annexed Sketch, to be measured in his presence when he personally gave the said Arthur Martin possession thereof; but the said Arthur Martin did not produce any written documents in support of his claim.

That it appears there is no written document or any sort of record to support Martin's title either in the Honorable the Colonial Secretary's Office or that of the Surveyor General's.

That your Memorialist respectfully submits that, as the said Arthur Martin only held the land under a revocable permissive occupation and never made any improvements thereon, but even abandoned it for so many Years (which to say the least of it tended to mislead the Government), he clearly comes within the terms of the Government Order of the 24th November, 1821, which Stated that "His Excellency the Governor called on all those Persons, who had received allotments, to commence building Dwelling Houses thereon without any further delay and to complete the same within 18 months from that date; in failure thereof, it would be taken for granted they did not intend building at all; and therefore the allotments, not built on within the time specified, would revert to the Crown, and be located to other Persons who were willing and able to build on them."

Your Memorialist begs further to State unto Your Excellency that, if the said Arthur Martin should recover possession of the land which he claims and which was so given to your Memorialist by Sir Thomas Brisbane in the most regular manner, and upon Mr. Oxley's report, as beforementioned, the loss will render the remainder of Your Memorialist's land of no value for the purposes of his trade, and will not only defeat the intention for which the land was given to your Memorialist and entirely destroy the prospects which he is fairly entitled to entertain from 8 Years of past industry, by depriving him of the means of carrying on his said trade in future, but also tend to the injury of the Shipping interest of the said Colony generally.

That your memorialist believes that the Jurors of the last Trial were influenced in giving a Verdict for the Plaintiff under the impression that, if they admitted the dictum of the Judges to be law, and were to give a Verdict for your Memorialist, that two thirds of the titles to land in the Colony would be shaken, and that, if by a Verdict for your Memorialist they admitted the right of Your Excellency to resume land which had not possession from the Crown under Seal, their own Estate might be the next to be resumed by Government.

That it is clear the interest of the Jury appeared, and, under that impression, is still thus directly opposed to the right of your Memorialist.

That, such a feeling being in existence, your Memorialist is afraid that he never can obtain Justice at the hands of a Jury of this Colony and that a positive wrong will be done to him, unless Your Excellency shall think proper, by and with the advice of Your Excellency's Council, to complete the promise made by Sir Thomas Brisbane by giving to Your Memorialist a Grant of the said land.

That, the said Arthur Martin being a person of no property, Your Memorialist begs to state that, whatever the result of the proceedings at law may be, he will never be able to recover the Amount of Costs (being about £400) which Your Memorialist has necessarily incurred in defending his right to the said land.

And your Memorialist begs further to state that the said Arthur Martin threatens that, if he obtains possession of the land, he will sue your Memorialist for the mesne profits thereof; and the hardship which Your Memorialist will thereby suffer, not through his own Act, but that of His Majesty's Government, Your Memorialist trusts will operate as an additional reason to the others before mentioned to induce Your Excellency to accede to the Prayer of this Petition.

Your Memorialist begs also to state that he has very recently discovered that the said Arthur Martin received a Town Allotment in Chapel Row, Sydney, from Governor Macquarie besides a farm in the Country, somewhere about the time that he pretends that part of the allotment in Cockle Bay, which your Memorialist holds, was given to him; and your Memorialist begs respectfully to point out the great improbability of two Town allotments being given to the said Arthur Martin by Governor Macquarie, when the said Arthur Martin had not the means of making improvements thereon conformably with the Government Regulations.

Your Memorialist therefore humbly prays that Your Excellency will be pleased to take the circumstance of his case into your

1834.
3 March.

Memorial
of J. Munn
soliciting
compensation
re land grant.

1834.
3 March.
Memorial
of J. Munn
soliciting
compensation
re land grant.

gracious consideration and make a Grant to him of said land as promised by Sir Thomas Brisbane or of a Water Side allotment not only of equal value in point of local Situation with that claimed by the said Arthur Martin, but what will cover the amount of Your Memorialist's said Costs; or grant such other relief in the Premises as to Your Excellency shall seem meet; And Your Memorialist as in duty bound will every Pray, etc., etc., etc.,

Sydney, 25th May, 1833.

JAMES MUNN.

[Appendix No. 2.]

SURVEYOR-GENERAL MITCHELL TO COLONIAL SECRETARY MACLEAY.

Sir, Surveyor General's Office, 22nd November, 1833.

Valuation of
land awarded
to A. Martin
and held by
J. Munn.

I have the honor to acknowledge the receipt of your letter of the 20th instant, No. 33/1081, referring to that of the 19th instant No. 33/1080, and requesting that I will report for the information of His Excellency the Governor in Council, the extent and value of the land in Darling Harbour awarded to Arthur Martin, as well as that left to Mr. Munn; and I have the honor therefore to report to you for His Excellency's information that the extent of land taken from Mr. Munn, and given to Arthur Martin by the Sheriff, is *one acre, two roods, eleven perches*, the value of which at the minimum rate of One thousand pounds per acre would be *One thousand five hundred and sixty eight pounds, fifteen shillings*, and that the portion left in Munn's possession contains *One Acre and thirty two perches*, the value of which at the same rate would be Twelve hundred Pounds.

I have, &c.,

T. L. MITCHELL, Surveyor General.

[Appendix No. 3.]

MR. W. MACPHERSON TO PRIVATE SECRETARY G. K. HOLDEN.

Internal Revenue Office,

Sydney, 20th January, 1834.

Sir,

Report re sale
of allotments
by A. Martin.

In reply to your letter of yesterday relative to the land in Darling Harbour recovered by Martin from Munn, part of which was advertised by the former to be put up for Sale this Day in twenty four allotments, I have the honor to inform you that I attended the Sale, which I have no doubt is a real bona fide transaction.

A Plan was exhibited, a sketch of which as correctly as one could be formed from my memory and memorandum is annexed.

The plan shewn at the Sale did not give quantities or measurements so fully as to enable me to form a Plan that I can depend upon as being strictly accurate; but I think it is sufficiently so to be pretty near the truth.

The whole quantity sold, I believe, was about One Acre and eight Perches, including the Street or lane left down the Centre of the Allotments, the width of which was not mentioned; but it appeared to be from eighteen to twenty feet.

The frontages of the two allotments next the water were about fifty four and fifty eight feet, and their contents about fifteen and twenty six Perches; they Sold for One hundred and two Pounds and ten shillings each, which is equal only to the rate of Eight hundred pounds per acre, Their very low price arose from the

shallowness of the Water, and the circumstance of the measurement being taken to low water mark; so that the greater part of these allotments are covered at high water.

Front allotments next the water sold at the rate of	£800
Back allotments at the average of	£1,285
General average of the whole	£1,165

The back allotments are about twenty two feet wide generally, and from fifty five to sixty six feet in Depth; they average about twelve hundred and eighty five Pounds per Acre.

The general average of the whole is equal to about eleven hundred and sixty five pounds per acre.

I have, &c.,

WM. MACPHERSON,

Collector of Internal Revenue.

1834.
3 March.

Report *re* sale
of allotments
by A. Martin.

RIGHT HON. E. G. STANLEY TO GOVERNOR BOURKE.

(Despatch marked "Private." per ship Susan; acknowledged by Governor Bourke, 17th July, 1834.)

Dear Sir,

Downing Street, 6 March, 1834.

6 March.

With reference to my Despatch of the 15th Ultimo upon the subject of the additional Roman Catholic Chaplains, for whom provision has been made by the Legislative Council, I think it right to inform you that I have communicated a Copy of your Despatch (with certain omissions in the concluding part of it, as marked in the accompanying Extract) to Mr. Edward Blount, who has warmly interested himself in favor of the Catholic Community in the Colony, together with an Extract of that part of the Revd. Mr. Ullathorne's letter, to which in your Despatch you specially called my attention. Although the reason of my withholding the passages in question is obvious, I consider it proper to apprise you of the circumstance, in case copies of the papers sent to Mr. Blount should be forwarded by him to his friends in the Colony.

Extracts of
despatch sent
to E. Blount.

I avail myself of this opportunity to notice the *printed* letter* addressed by Mr. Therry to Mr. Blount, containing strictures upon Archdeacon Broughton. Without wishing to be understood as conveying to you my opinion of the letter of the Archdeacon, I think it right to express to you my sense of the impropriety of Mr. Therry having published his letter to Mr. Blount, as I feel assured that it cannot but be detrimental to the Public Service that an Individual, holding an Official Situation, should resort to the Press as a means of conveying censure upon the line of conduct, which any other Public Functionary may think it right to adopt.

Criticism of
publication of
letter addressed
to E. Blount.

I remain, &c.,

E. G. STANLEY.

* Note 97.

1834.
6 March.

[Enclosure.]

EXTRACT of a Despatch from Genl. Bourke to Mr. Stanley,
dated 21st August, 1833.

Extract from
despatch re
R.C. chaplains.

To this end, I beg leave to call your attention to the concluding Paragraph of the accompanying Letter from the Vicar General, The Reverend William Ullathorne, who suggests that no Persons be appointed to these situations, who have not previously been approved by Dr. Bramston, *the present Roman Catholic Bishop of London.* *In recommending* I beg to recommend this suggestion to your favorable consideration. *I think it right to remark that two of the three Roman Catholic Chaplains at present in this Colony are Irishmen.*

** The words in italics were scored through in the original.*

GOVERNOR BOURKE TO RIGHT HON. E. G. STANLEY.
(Despatch No. 24, per ship Henry.)

10 March.

Complaint re
delay in
erection of
buildings for
King's school
at Parramatta.

Sir, Government House, 10 March, 1834.

The Archdeacon of New South Wales having represented to me in conversation a few days ago that the Revd. R. Forrest, who arrived here early in the year 1832 with the appointment of Master of the King's School at Parramatta, had complained of the inconvenience and loss he has incurred and still continues to incur by reason of delay in erecting a Building to receive his Boarders, and further that the Building now about to be erected is not sufficiently ample, and the Archdeacon having expressed his intention of bringing this matter before you on his arrival in England with the view of obtaining compensation for Mr. Forrest's alleged loss, it may be convenient that I should furnish you with a statement of the case.

Instructions re
foundation of
King's school.

In the despatch of Viscount Goderich, addressed to General Darling, dated 22 March, 1831, No. 26, the establishment of a King's School at Parramatta, "capable of accommodating from sixty to eighty Boarders and Day Scholars," is authorized, and the Governor permitted to erect a Building with the necessary portion of Land attached to it as a garden and Play ground, whenever the State of the Treasury may enable him to do so; but it is directed that "the Building shall be the plainest and most economical description and be erected by Contract"; by the same despatch the Master is allowed a Salary of one hundred pounds a year.

Arrival of Revd.
R. Forrest.

The Revd. R. Forrest, having been appointed Master, arrived here in January, 1832, being about one month after I had assumed the administration of the Government. Up to that time, I am not aware of any step having been taken towards fixing upon a Site for the King's School, either by my Predecessor or

the Church and School Commissioners with whom the duty more especially rested. I concurred however with the Archdeacon in opinion that it would be proper immediately to Hire a House for Mr. Forrest in Parramatta, in which he should begin to hold his School. This was accordingly done, and the School opened the 14th February following. The House has since been added to, and a smaller has also been hired at an expense for Rent, now altogether amounting to £105 a year. I next directed the Surveyor General to point out such vacant Crown Land in Parramatta as appeared likely to answer for the Site of the intended Building. After several communications on this subject with the Archdeacon, who proposed to Build the School in the grounds attached to the Governor's House, which I declined, whilst he objected to the site proposed by the Surveyor General on the North side of the River, He applied to me, by letter on the 16 June, 1832, for a portion of Land in George Street; to which application, after having made the necessary reference to the Surveyor General, I acceded on the 14th July following; in the ensuing Month of September, when the proposed Expenditure for the year 1833 was laid before Council, I obtained upon the Estimate of the Church and School Commissioners a Grant of £1,200 for the erection of the School. Whilst the subject was under discussion in Council, some of the Members objected to the Site as unhealthy, in consequence of which, as I believe the Archdeacon subsequently proposed to me to procure from the Proprietor a more elevated piece of Land adjoining the Military Barrack, to which proposal after enquiry I consented on the 2nd of February, 1833; however The Church and School Commissioners addressed a letter to the Colonial Secretary recommending that the Garden of the Horticultural Society on the Northern Bank of the River should be purchased for the Site, the Society proposing to sell it for three hundred pounds. I immediately directed enquiry to be made as to the tenure of that Land by the Society, and, finding that it might be legally parted with, I obtained from the Council in July, 1833, during the absence of the Archdeacon in Van Diemen's Land, a Grant of three hundred pounds to be paid to the Society for relinquishing the garden and an additional Vote of £800 for erecting the School.

Prior to this Vote, namely in January, 1833, the Commissioners had laid before me three Several Plans and Elevations for the School House; prepared by their Architect; one of these designs, being considerably ornamented and estimated to cost £3,675 7s., was recommended for my approval in preference to a plainer Building estimated to cost less by 925£. Having directed

1834.
10 March.

Lease of house for and opening of King's school.

Selection of site for King's school.

Grant for erection of school.

Objections to site selected.

Purchase of new site.

Additional vote for erection of school.

Plans proposed for school house.

1834.
10 March.

Building proposed by R. Bourke.

the Colonial Architect to report upon these Plans, he objected to them all chiefly for want of proper ventilation, and submitted a design of his own still more ornamented than those of the Commissioners at an expense of £4,000. Having however subsequently ascertained from him that a plain Building, such as The Secretary of State authorized, to contain sixty Boarders with a large School room for day Scholars, might be erected for about £2,000, I proposed to the Council, as I have before stated, the additional Vote of Eight hundred pounds to make up, with the 1,200£ previously granted, the Sum of £2,000.

Tenders for erection of building.

The dissolution of the Church and School Corporation having been promulgated in the Colony in August last, I took the affairs of the School in hand, and directed the Colonial Architect to call for Tenders for erecting by Contract a plain, substantial Building according to a Plan and Elevation prepared by him at the Estimated cost of £2,000. The first Tender for Carpenters' work having been unreasonably high, a second was necessarily called for; and Tenders for the whole Building amounting to £2,350 were finally approved in the last month being the lowest I could obtain. I am assured the work will be immediately commenced; but I must observe that great delays attend the completion of Contracts in this Country, such engagements for the purposes of Government having come into general use within the last two years only, There being very few contractors in the Colony with any Capital and the dissipation of the Workmen rendering it impossible to secure their regular attendance.

Progress of school.

Denial of claims of Revd. R. Forrest.

During this time, Mr. Forrest's School has been conducted with much success; and, though it is certain he has experienced considerably more trouble in its management owing to the inefficient and scattered Buildings he has been obliged to occupy, than if he had a well arranged House provided for him, yet it is equally certain that he has derived considerable profit from the employment, in which he has been placed, and that he had no right to expect that a House would be ready for his reception on his arrival, the authority to the Governor to build having reached the Colony but six or seven Months before Mr. Forrest, and its erection being made by the Secretary of State's Instructions, contingent on the state of the Treasury, and depending in fact upon many other circumstances.

Complaint re size of building.

With respect to the size of the Building now contracted for, of which Mr. Forrest is said to complain, I have only to observe that it will contain at least sixty Boarders, being the lowest of the two quantities authorized by the Secretary of State. Lord Goderich indeed may have intended to include *Day Scholars* as well as *Boarders* in the numbers Sixty or eighty, as Set forth in

his Lordship's Despatch before referred to, in which case Mr. Forrest will obtain accommodation for many more Boarders than the Secretary of State proposed. General Darling, in a Government Minute issued in August, 1831, announced that a School for 80 Boarders and Day Scholars would be established in Parramatta. But, upon this document which ever way it may be construed, Mr. Forrest can found no claim for compensation, as when he agreed to come out he was necessarily ignorant of its existence.

1834.
10 March.

Minute re establishment of school.

Upon the whole, I do not see that Mr. Forrest has been so dealt with as to have any just claim for pecuniary compensation. The Church and School Corporation may indeed have occasioned some unnecessary delay in commencing the Building by proposing so many different Sites; but such delays are almost unavoidable in such undertakings, and every temporary accommodation, that Mr. Forrest has asked, has been immediately granted to him.

Denial of claims by Revd. R. Forrest for compensation.

I have been more particular in detailing this case as, from the fact of my having expressed an opinion unfavorable to the erection of a School for Boarders at the expence of the Colony, I may be supposed to have put obstacles in the way of its commencement. Such assuredly is not the fact, my care has been to limit the expence. I feel indeed strongly the many objections, which may be urged against the Plan, upon which this School is instituted; and I have scrupled, in addition to a life annuity of £100 payable to the Master, to lay out some thousands more in providing at the Public expence a cheaper School than might otherwise be obtained for the Sons of the wealthy Colonists and Civil Servants of the Government, whilst the Children of the poor are educating in mere Hovels under Convict School Masters. I admit that it was highly desirable to bring into the Colony competent Masters from the former Class; but this might have been effected by the payment of a Stipend for five or at most Seven years as an inducement to diligent and respectable men to take the chance of succeeding in forming an Establishment. That such Persons would have succeeded is evident from the success of Mr. Forrest under the present system. By erecting a large Building at the Public expence, a Constant charge is entailed for Repairs, Improvements and additions, with a great risk of the appointment of incompetent Masters hereafter and the certainty of impeding competition by affording to the Government Nominees advantages, which are denied to others however meritorious. The exclusive nature of this Establishment, as none but Members of the Church of England are ever likely to attend it, is a further objection. For these reasons, I would

Reasons for statement.

Objections by R. Bourke to plan of school.

1834.
10 March.
System for
schools proposed
by R. Bourke.

earnestly hope that no additional expense would be authorized for the King's School at Parramatta, but that the resources of the Colony may be more advantageously expended in promoting general education by establishing respectable day Schools under Competent Masters from England in every District of the Country, where an attendance of Children can be procured. In addition to such Schools, I have suggested to the Archdeacon the expediency of obtaining, by the encouragement of a Stipend to the Master for three or four years in the manner I have mentioned, the introduction of Schools similar to those, which used to be and I believe are still found in Yorkshire, where Boys of the middle classes are lodged, boarded, clothed and taught for a very moderate annual charge.

I have to apologize for the length to which this despatch has extended; but, feeling a deep interest in the education of the rising generation in this Colony, I have thought it a duty to submit my opinions on this subject for your consideration.

I have, &c.,

RICHD. BOURKE.

Capacity of
building for
King's school.

P.S.—Since the foregoing was written, I have been informed by The Surveyor General that the Building Contracted for will hold *eighty Boarders*.

GOVERNOR BOURKE TO RIGHT HON. E. G. STANLEY.
(Despatch No. 25, per ship Henry.)

11 March.

Sir, Government House, 11th March, 1834.

Control of
temporal
affairs of
church of
England.

As the Archdeacon of New South Wales is about to proceed to England for the purpose of laying before His Majesty's Government the state of the Church of England in this Colony, I consider it my duty to inform you that the Provisional arrangements for the management of the temporalities of the Church, which became necessary on the dissolution of the Church and School Corporation, and were reported in my despatches named in the margin,* have been carried into effect, and that I have no reason to suppose that this Government will find any difficulty in their future superintendence in the manner and principle suggested in these despatches. In Spiritual matters indeed, the clergy of the Church of England require a local Head; and I cannot upon further reflection recommend any arrangement more likely to answer than the appointment of a Bishop for these Colonies at a low rate of Stipend.

Proposal for
appointment
of bishop.

I have not yet named a Committee to superintend the Orphan Schools, being desirous of receiving your Commands upon the arrangements I have suggested for the general management of

* Note 98.

the Colonial Schools, before I take any step of importance regarding the Orphan Schools; every necessary arrangement has, however, been made for their proper maintenance. Contracts have been obtained for supplying them, with the fulfilment of which there is every reason to be satisfied. Upon a recent inspection, I found the appearance of both Schools, more especially the Female, very much improved. The attention, which has been paid to these Schools by Archdeacon Broughton in every particular relating to them, is above all praise, and has led to the improvement I had so much pleasure in observing. During the absence of the Archdeacon, The Revd. S. Marsden is to visit these Schools.

1834.
11 March.

Orphan schools.

The parochial Schools are Superintended by the neighbouring Chaplains and are conducted as formerly. The more I see of the Colony, the stronger is the impression that a general System of Education provided by the Government upon an extensive scale and conducted by able Teachers is absolutely required by this people.

Parochial schools.

I have, &c.,
RICHD. BOURKE.

GOVERNOR BOURKE TO RIGHT HON. E. G. STANLEY.

(Despatch No. 27, per ship Sir Joseph Banks; acknowledged by right hon. T. Spring Rice, 10th September, 1834.)

Sir, Government House, 20th March, 1834. 20 March.

I regret to be obliged to acquaint you, in confirmation of the statement which I have lately had occasion to make of the disappointment, which the Colony sustained in many of the women who came out by the Layton, that I have been induced, by the representations made to me of the mental imbecility of Elizabeth Brian, one of these Emigrants who received a Government Bounty, and her total incapacity to procure a livelihood, to direct her being returned home by the Ship "Sir Joseph Banks," which will probably sail on the 28th Inst. for London. She has been hitherto kept in the Benevolent Asylum at the Public charge, where she would probably have remained for Life, if she continued here. The Colonists would naturally feel aggrieved at such a charge, merely to relieve her Relations or her parish at home, in addition to the payment made for her passage out of the Land Revenues of the Colony; and the case would be regarded with more jealousy as being a precedent for future impositions of a similar nature being practised on the gentlemen entrusted in England with the selection of the Candidates for Emigration.

Return of imbecile female immigrant to England.

The Colonial Secretary Mr. Macleay has written both privately and officially to Mr. Foster, the Chairman of that Committee,

1834.
20 March.

at the time when the Layton sailed; and, as the Captain has engaged to keep the woman on board for a reasonable time after arrival to await her being sent for by that gentleman or some Persons authorized to receive her on behalf of her friends or Parish, I trust there will be no difficulty in restoring her to the place to which she properly belongs.

Passage granted
per ship *Layton*
to wife of
soldier.

While on this subject, I ought also to mention an additional fact which has come to my knowledge, shewing the want of a due care in the Selection, that the Wife of a Soldier in the 21st Fusiliers, who was not entitled by regulation to embark with her husband, came out on bounty in the Layton, no questions being asked, as she declares, whether she was married or single.

I have, &c.,
RICHD. BOURKE.

UNDER SECRETARY LEFEVRE TO GOVERNOR BOURKE.

(Despatch per ship *Surrey*; acknowledged by Governor Bourke.
19th October, 1834.)

21 March.

Sir, Downing Street, 21 March, 1834.

Alleged
payment for
passage money.

I am directed by Mr. Secretary Stanley to transmit to you the copy of a letter, which has been received from the Revd. John Fletcher, Minister of Ashford in the county of Wicklow, in behalf of a poor man, named Bartholomew Collins, whose Son in Law is alleged to have paid into the hands of Government a sum of Money for the purpose of defraying the expences of certain Members of his Family to New South Wales. Upon reference to the Agent in this Country, he has stated that he has received no application on the subject from the Colony of any of the circumstances mentioned in Mr. Fletcher's letter; and I am therefore to request that you will cause enquiries to be made as to the accuracy of the statement, made by Murphy to his Relations in this Country, and to report to me the result for the information of the parties interested.

I have, &c.,
JOHN LEFEVRE.

[Enclosure.]

[*A copy of this letter is not available.*]

GOVERNOR BOURKE TO RIGHT HON. E. G. STANLEY.

(Despatch No. 28, per ship *Sir Joseph Banks*; acknowledged by right hon. T. Spring Rice, 9th September, 1834.)

Sir, Government House, 21 March, 1834.

I have the honor to transmit herewith a Memorial from Mr. W. Grace, an Attorney who Emigrated to this Colony by the *Hibernia*, which Vessel, as is generally known, was destroyed

Transmission
of memorial
from W. Grace.

by fire on her passage, and a few only of the passengers, among whom was Mr. Grace, escaped with life, and were conveyed to these shores by another Vessel. Mr. Grace states that he has lost his health and some property by this catastrophe and seeks to engage the compassion of His Majesty's Government in his favor for two objects, the one a grant of Land, and the other a free passage for his family to this Colony; as to the former, I do not suppose that His Majesty's Government will see fit to establish a Precedent, by which under any circumstances the Crown Lands of this Colony are to be in future the subject of charitable donation. As to the latter, I must leave it entirely to that Government to judge whether it be possible to make arrangements for the passage of Mrs. Grace and her family, which is stated to consist of 5 children in one of the Prison Ships proceeding to this Colony.

I have, &c.,

RICHD. BOURKE.

[Enclosure.]

THE Memorial of William Grace, Attorney at Law, now residing at Sydney, New South Wales,

To The Rt. Hble. Edwd. Geoffrey Smith Stanley, His Majesty's principal Secretary of State for the Colonial Department, Sheweth.

That Your Memorialist, influenced by the very flattering representations made to him in the City of Dublin by his friends, and information promulgated by the Government, determined upon migrating with his family and property to New South Wales.

That Your Memorialist accordingly proceeded to execute his intentions by taking passage for himself only in the Ship *Hibernia*, William Brend, Master, at the Port of Liverpool, in which Ship Memorialist embarked and ultimately sailed from thence for the Port of Sydney, New South Wales, on the 6th day of December, 1832.

That, your Memorialist being in the said Ship on the 5th day of February, 1833, at Lat. 4° 13' South and Long. 19° 45' West, an alarm of fire was given through an accident that occur'd in the Store Hold of the Ship, and which terminated in her total destruction; by which 153 lives were lost.* Memorialist thus cut off from the means of saving any part of Memorialist's valuable property was in an instant precipitated upon the mercy of Providence, fortunate enough scarcely to save life by instant removal to an open boat; the only precarious means left for safety, being then 1,180 miles from Pernambuco the nearest land.

That Memorialist suffered every and the most grievous privations that hunger and want could suggest for seven days and nights; that Memorialist was exposed in an open boat in the torrid zone, was picked up in an exhausted state and landed at the Port of Rio de Janeiro by his Majesty's male convict ship the *Lotus*, John Summerson, Master, whence Memorialist was conveyed to Hobart Town, Van Dieman's Land, by the Brig *Adelaide*, Clark, Master, and subsequently from thence by the said Ship *Lotus* and landed at the Port of Sydney on the 25th day of June last.

1834.
21 March.

Loss incurred by fire on ship *Hibernia*.

Request by W. Grace for assistance.

Memorial of W. Grace soliciting land grant and free passage for family.

* Note 35.

1834.
21 March.
Memorial of
W. Grace
soliciting land
grant and free
passage for
family.

That Your Memorialist being by such disaster suddenly reduced to Penury and Want has been induced to represent his calamity to you, in the hope that his Majesty through your mediation may be pleased to entertain Memorialist's peculiar case and concede a Maximum Grant of Land so called with a remission of the usual rate of purchase money in the Colony of New South Wales, in consideration of Memorialist's unforeseen disasters, and the fact of his having in his possession at the time of the Shipwreck a sufficient amount of money to purchase such grant whereof Memorialist is prepared to give ample attestation.

That Memorialist, being separated and at such an unmeasurable distance from his family (consisting of a Wife and five children, viz., Three daughters of the respective ages of 15, 16½ and 18 years and 2 younger Sons, now residing at No. 2 Hume Street in the City of Dublin, Ireland), and by reason of Memorialist's sad catastrophe deprived of the means whereby to convey them to this Colony, has the anguish of finding himself reduced to the most grievous and insupportable extremity of human calamity.

May it therefore please you to concede Memorialist a Maximum Grant of Land in the Colony of New South Wales with a remission of the purchase money. And may it further please you to grant an order for the free conveyance, including board, of Memorialist's Wife and five children and a Servant in the cabin of one of His Majesty's Transport Ships; and that you be pleased to transmit such order to His Excellency the Governor of New South Wales or such other order as shall seem meet. And that a duplicate of such be transmitted to Mrs. Grace, 20 Camden St., Dublin.

And your Memorialist as in duty bound shall ever pray.

WM. GRACE.

14 Feby., 1834.

[Here followed certificates by F. Forbes; J. Dowling; W. W. Burton; R. Therry; J. Kinchela; J. H. Plunkett; W. G. Broughton; K. Snodgrass; C. D. Riddell; W. Bland; and J. B. Favell.]

RIGHT HON. E. G. STANLEY TO GOVERNOR BOURKE.
(Despatch No. 70, per ship Surry.)

22 March.
Papers re
dismissal of
W. T. Jay.

Sir, Downing Street, 22d March, 1834.

I transmit to you herewith for your guidance a copy of a letter from the Secretary to the Treasury, together with its Enclosures, respecting the dismissal of Mr. W. T. Jay, Clerk to the Collector of Customs at Sydney, without subjecting his conduct to that previous investigation, which the Rules and Regulations of the Customs Department required; and I have to desire that, in any similar case of delinquency on the part of an officer of that Department, you will not suspend him from his duties, unless the Forms of Proceeding, pointed out by the Commissioners of Customs, shall have been previously observed.

I am, &c.,

E. G. STANLEY.

Necessity for
inquiry prior
to suspension.

[Enclosure.]

1834.
22 March.

MR. C. WOOD TO UNDER SECRETARY LEFEVRE.

Sir,

Treasury Chambers, 10th March, 1834.

I am commanded by the Lords Commissioners of His Majesty's Treasury to transmit herewith for the information of Mr. Secretary Stanley the copies of a Report from the Commissioners of Customs, dated 16th of November last, and of their Lordships' Minute thereon of the 4th Instant, relative to the dismissal of Mr. W. T. Jay, Clerk of the Collector at Sydney, New South Wales; and I am to request that you will move Mr. Stanley to issue Instructions to the Governor of New South Wales in conformity with the directions contained in their said Minute in the event of any future charge against any of the Officers of the Customs in that Colony.

Transmission
of report.I am, &c.,
C. Wood.

[Sub-enclosure.]

THE Memorial of the Commissioners for managing and causing to be levied and collected His Majesty's Customs.

Report by
commissioners
of customs *re*
dismissal of
W. T. Jay.

To the Lords Commissioners of His Majesty's Treasury.

Sheweth,

That, by the Established Rules which have been laid down by us to be observed by Surveyor General, Collectors, or other officers on the examination of complaints made against Officers and persons employed in the service of this Revenue for neglect of duty or other misconduct, the person accused is required to be furnished in writing with a full and distinct charge, setting forth under separate heads the several matters of misconduct or complaint imputed to him; that, upon his answer in writing being received, it is the duty of the officer, who may have been directed to conduct the enquiry, to proceed in the presence of all parties to a hearing of the case, in like manner as is practised in Courts of Justice, by permitting the Complainant first to go through his Evidence on oath, and also to examine such Witnesses as he may have to produce in support of the charge, the accused putting such questions to the Complainant and his Witnesses as he may deem necessary to his exculpation. The accused party is then at liberty to enter upon his defence, and to produce such evidence in support thereof as he may think proper, special care being taken that the accused should not himself be interrogated. And, after the investigation shall have been completed, the Officers are directed to transmit to us the charge and the officer's answers thereto, together with their Report and observations, and the evidence adduced on each side for the consideration and directions. And, by a special Article of our Instructions to the Collectors and Comptrollers of this Revenue in the British Possessions abroad, they are directed, upon the discovery of any fraud or negligence on the part of any Officer under their survey, to charge such officer therewith, and to proceed in the enquiry in strict conformity with the rules herein before referred to, observing that they are not to suspend any officer from the duties

1834.
22 March.

Report by
commissioners
of customs *re*
dismissal of
W. T. Jay.

of his office except in cases of fraud or such gross misconduct, as may call for immediate interposition, and then only with the sanction of the Governor.

That we have recently received a communication from the Acting Collector and Controller of this Revenue at Sydney, New South Wales, stating that it having been represented to them by one of the inferior officers of the Port (who had culpably withheld from them all knowledge of the fact for upwards of three months) that Mr. W. T. Jay, 3rd Clerk to the Collector at that Port, had been guilty of fraud in the embezzlement of the Public Money to the amount of £137, which he had received as Duties; and, Mr. Jay having as it is stated by the Collector and Controller confessed his guilt, although no admission in writing to that effect from Mr. Jay has been transmitted to us, they had recommended to His Excellency the Governor of New South Wales the dismissal of Mr. Jay, and he was accordingly dismissed from the service.

That, as it would appear that the Collector and Controller at Sydney have upon the present occasion altogether neglected to comply with the Instructions, which they have received from us for their government in cases of this nature, and as we are not aware that the Governors of Colonies are empowered to dismiss officers of the Customs, who have been placed by your Lordships under the orders of this Board, and as considerable embarrassment might arise in carrying on the Public Service, should a Governor of a Colony exercise such a power independently of this Board without any formal inquiry upon oath into the conduct of the accused according to the established Regulations of the Service, We would suggest for Your Lordships' consideration whether Mr. Jay should not be considered as a suspended officer and that Mr. Gibbes, who has been recently appointed Collector at Sydney, and is now upon his Passage to the Colony, should be directed to charge Mr. Jay according to the usual form, as well as any other officer who may have been concerned in these fraudulent transactions, and to make such further enquiry as he may see fit into all the circumstances connected therewith, reporting the result for our consideration and directions.

We beg to add that we consider it the more necessary that a further investigation should take place inasmuch as we are at present unable, in consequence of the Collector and Controller having deviated from their Instructions, to form an opinion how far the Superior Officers of the Port may have failed in exercising that vigilance and controul over the subordinate officers of the Department, which it was their duty to have done, for the purpose of preventing frauds being carried on to so considerable an extent upon the Customs Revenue of the Colony without the same having been detected by them. And, should your Lordships be pleased to concur in opinion with us, We would suggest whether a communication should not be made to the Governor of New South Wales with the view of preventing any misconception upon the point in future.

And we would upon receiving Your Lordships' directions issue the necessary Instructions to Mr. Gibbes accordingly.

R. B. DEAN. D. M. BUNNING.
H. RICHMOND. W. CUST.

Custom House, 16 Novr., 1833.

GOVERNOR BOURKE TO RIGHT HON. E. G. STANLEY.

(Despatch No. 29, per ship Sir Joseph Banks; acknowledged by
earl of Aberdeen, 31st January, 1835.)

1834.
22 March.

Sir, Government House, 22nd March, 1834.

At the request of Mr. Percy Simpson, an Assistant Surveyor of this Colony, I have the honor to transmit a Memorial, which he addressed to Lord Goderich during the time that His Lordship held the Seals of the Colonial Department. It refers to a pecuniary claim made by Mr. Simpson by virtue of an agreement with the Governor Sir Thomas Brisbane, on the interpretation of which a difference of opinion* arose between this Government and Mr. Simpson during the administration of General Darling. The Governor and Executive Council decided against Mr. Simpson's claims. I have now consented to forward his Memorial, it having lately come to my knowledge that His Majesty's Government permitted a somewhat similar demand* of equally long standing, made by Mr. L. S. Harris, formerly employed as an Architect by this Government, to be brought before a Court of Law.

Transmission
of memorial
from
P. Simpson.

I will as briefly as possible state the substance of Mr. Simpson's claim; on his arrival in the Colony in 1823, he was appointed by Sir Thomas Brisbane to superintend, in capacity of Commandant, the formation of the Agricultural Settlement at Wellington Valley, on the terms that he should receive £100 for the first year to be paid in advance, and for the next year £4 for every convict he was able to subsist on the wheat produce of the Settlement. On this agreement, Mr. Simpson remained at Wellington Valley until after the departure of Sir Thomas Brisbane in 1825, receiving certain Sums from time to time on account of wheat certified to be in store at that Settlement, the warrants for the payments stating them to be made on account of his percentage on the wheat crop at Wellington Valley. In 1826, having submitted to General Darling a memorandum of the Balance, which he then considered due to him under the agreement in order to its adjustment and liquidation, a further advance was made to him on account; but, on the claim being laid before the Executive Council by General Darling for their opinion and advice, it was determined that the agreement could only be understood as entitling Mr. Simpson to £4 for each Convict, actually and *bonafide* maintained on the Settlement. Mr. Simpson contended that it applied to the quantity of wheat raised, and the number of men that it was *sufficient to subsist*; that he had so understood it and would not have undergone so

Statement
re claims of
P. Simpson.

1834.
22 March.
Statement
re claims of
P. Simpson.

much hardship and exertion on any other terms; that he had evidence of such being the understanding between himself and Sir T. Brisbane, which had not been laid before the Council; and that this was the only reasonable construction, since the Colony had the benefit of the wheat not consumed on the Wellington Valley Establishment; and that the small number of men, with which he had raised the Crops, constituted his Chief merit and should not operate to his disadvantage. On these grounds, he requested that his case might be submitted to a Board of Claims which was refused.

In June, 1826, Mr. Simpson was reduced from his Situation at Wellington Valley, and an offer was made him by this Government to adjust his claim by paying him for his services at the rate of £300 a year, the sum usually allowed to Commandants at other Stations, on his giving a receipt in full of all demands. This receipt Mr. Simpson refused to give; but he accepted the balance payable to him on the computation allowed by the Governor and Council on the required receipt being modified.

Testimony
in favour of
P. Simpson.

The matter has thus rested. In the mean time, Mr. Simpson has filled the offices of Resident Magistrate at Portland Head and Assistant Surveyor of Roads, which latter employment he now holds; and, in this Capacity, in which I have had an opportunity of observing his conduct, I have found him deserving of the highest commendation for zeal, assiduity and ability, as well as respectability of demeanor in private life.

I have, &c.,

RICHD. BOURKE.

[Enclosure.]

[A copy of this memorial is not available.]

RIGHT HON. E. G. STANLEY TO GOVERNOR BOURKE.

(A circular despatch per ship Surry; acknowledged by
Sir Richard Bourke. 15th February, 1835.)

Sir,

Downing Street, 24 March, 1834.

My attention having been called to the subject of Quarantine as affecting the trade of this Country with the Colonial Possessions of the Crown, and being desirous of obtaining the fullest information relative to the mode in which Quarantine is administered in the Colony under your Government, I have to desire that you will, at your earliest convenience transmit to me:

24 March.
Returns and
statements
required re
system of
quarantine.

1st. A statement of the Quarantine Regulations actually in force, together with the Laws under which such Regulations are enforced.

1834.
24 March.

Returns and statements required *re* system of quarantine.

2d. A Return in the following Form, shewing,
 Authority under which fees are imposed;
 Nature and amount of fees upon each vessel;
 Nature and Amount of fees upon Cargoes;
 Nature and Amount of Fees upon Passengers,
 together with an account of any other charges, to which Ships, Goods and Passengers are liable on account of Quarantine.

And 3ly. A statement of the names and designation of the officers, under whose superintendance the Regulations of Quarantine are enforced, and the amount of the Salaries and Emolument accruing to them, whether by fees or otherwise from Quarantine.

I am, &c.,
 E. G. STANLEY.

UNDER SECRETARY LEFEVRE TO GOVERNOR BOURKE.

(Despatch per ship Surry; acknowledged by Governor Bourke, 12th December, 1834.)

Sir, Downing Street, 24th March, 1834.

With reference to the correspondence,* which has already taken place between this Department and the Government of New South Wales respecting the case of Mrs. Gray, the Writer of the enclosed Letter, I am directed by Mr. Secretary Stanley to request that you will take such measures, in pursuance of the directions of the late Secretary of State, as shall ensure the fulfilment of the agreement made by this Lady's Husband, who holds the situation of Deputy Harbour Master at Sydney, of remitting half yearly the sum of £36 for her support, it appearing that no remittance has been forwarded to Mrs. Gray since the month of September, 1832.

Instructions *re* payments to I. Gray.

I am, &c.,
 J. LEFEVRE.

[Enclosure.]

MRS. GRAY TO RIGHT HON. E. G. STANLEY.

Sir, No. 5, King Edward St., Wapping, 17 March, 1834.

With reference to my letter dated the 1st of July, acknowledging the receipt of Mr. Hay's letter to me of the 19th of June, permit me humbly to enquire whether any advice has yet been received from Sydney respecting a further remittance from my husband John Gray.

Request by I. Gray for assistance in securing payment.

The Allowance I have already received is up to the 30th Septemr., 1832, and I most earnestly crave, Should nothing further have been

* Note 100.

1834.
24 March.

heard respecting another remittance, that the same powerful interest will be exerted in my behalf to enforce payment, as in the first instance commanded the attention, which I other wise could never have secured by any application from myself.

Soliciting the favour of your reply I am, &c.,
ISABELLA GRAY.

RIGHT HON. E. G. STANLEY TO GOVERNOR BOURKE.

(Despatch No. 71, per ship Surry.)

25 March.
Approval of
refusal of
land grant to
trustees of
Scots church.

Sir, Downing Street, 25 March, 1834.

I have received from the Revd. Dr. Lang since his return to England a communication on the subject of an application, addressed to you by the Trustees of the Scots Church, for the grant of a piece of Land of an equal extent to that which they had surrendered for the use of the Australian College, commenced under the auspices of Dr. Lang.

I fully approve of the answer, which you have returned to this application. It does not appear from any Information, contained in the application itself, that the allotment of Land, originally granted by the Government for the use of the Scotch Church, was given for any other purpose than as a site for the erection of a Chapel and its Appendages. But, even were it in the contemplation of the Government at that time, which I very much doubt, to bestow this Land by way of Glebe or as a means of maintaining a Presbyterian Clergy, the stipends, which have been subsequently granted to them, added to the fact of the Land being available for the service to which a portion of it has been now devoted, deprives the parties, in whom the Grant has vested, of all claim to another Allotment in lieu of the one which they have thus relinquished; and I feel the less hesitation in making up my mind upon this point, as it formed no part of the agreement entered into with Dr. Lang, when he was last in England, that the Government would grant in fee simple any portion of Land to facilitate the erection of the Building in question.

I am, &c.,
E. G. STANLEY.

RIGHT HON. E. G. STANLEY TO GOVERNOR BOURKE.

(Despatch No. 72, per ship Surry.)

Sir, Downing Street, 26th March, 1834.

26 March.
Despatches
acknowledged.

I have had the honor to receive your Despatches, Nos. 55 and 56 of the 9th July last, in which you have forwarded two applications, which you have received from the Revd. Dr. Lang, the one for a Grant of Land in consideration of his having introduced into the Colony a Body of Mechanics, and the other for

an addition to the numbers of the Presbyterian Clergy and for assistance towards the support of Schools for Children of that persuasion.

1834.
26 March.

I approve your decision not to grant to Dr. Lang any relaxation of the Regulations under which the Crown Lands are alienated, as I find, on reference to the correspondence which passed between this Office and Dr. Lang, that the circumstances, under which he induced the Mechanics to proceed to the Colony, give him no claim whatever to compensation.

Refusal of compensation for Revd. J. D. Lang.

With regard to the 2d Point, I have informed Dr. Lang that I shall defer the consideration of the propriety of extending the means of Religious Instruction and Education according to the forms of the Scots Church, until after I shall have had an opportunity of consulting with Archdeacon Broughton on the subject of Religious Instruction generally in New South Wales, as well as in Van Dieman's Land.

Instructions withheld *re* increased subsidy to Scots church.

I avail myself of this opportunity to express my regret that you should have allowed Dr. Lang to quit the Colony so soon after his return to it, particularly as I cannot consider that the objects, for which he has revisited Europe, were of a nature to justify his absenting himself from his Religious duties. I have informed him that I cannot sanction the issue of his Half Salary beyond the 1st Sept. next; and, if he should not have arrived in the Colony by that time, you will give directions for the discontinuance of his Half Salary accordingly. I am, &c.,

Regret at leave of absence granted to Revd. J. D. Lang.

E. G. STANLEY.

RIGHT HON. E. G. STANLEY TO GOVERNOR BOURKE.

(Despatch No. 73, per ship *Surry*: acknowledged by Governor Bourke, 18th September, 1834, and 13th February, 1835.)

Sir,

Downing Street, 8th April, 1834.

8 April.

In reference to my Despatch, No. 29, of the 27th of July last, I have now the honour to inform you that two Ships will be despatched to New South Wales during the present year; one in the early part of July, the other in the month of September or October following. These vessels will each convey to the Colony from 200 to 250 young women, whom you will be prepared to receive and provide with the same accommodation and protection, until they shall obtain suitable situations, as were afforded to those Females who preceded them.

Female immigrants to be sent to colony.

The mischiefs, which were found to result in the case of the two first ships, which were despatched to the Australian Colonies, from the indifferent characters of many of the females who were embarked in them, have given rise to much greater caution in this respect than was found practicable in the first instance.

Caution in selection of immigrants.

1834.
8 April.
Selection
of female
immigrants.

The selection of Females, on the present occasion, will be confided to the Committee, by whose exertions the "Bussorah Merchant" and the "Layton" were despatched to N. S. Wales during the past year; and, altho' no official accounts have been received from you of the arrival of either of those Ships, yet the satisfactory information, which has been sent home by the Superintendent of the former Ship, fully justify the confidence which has been placed in the Committee, by whose continued assistance it is hoped that a Class of female Emigrants will be introduced into the Colony, whose previous habits of industry and virtue will tend much to the moral improvement of Society there.

Funds available
for promotion
of immigration.

In my Despatch before adverted to, you were required to send home an account of the expenditure, which had been incurred in the encouragement of Emigration, together with a statement of the Funds available for that service during the present year. To this communication, there has been scarcely time, as yet, for me to receive an answer. Your Despatch, however, of the 9th July, 1833, reporting that "the Balance arising from the Sales and Rents of Crown Lands (from which all Advances and Bounties on Emigration had been paid) would amount at the close of 1833 to nearly £20,000," supplies in a great measure this deficiency, and enables me, without waiting for any further communication from you on this subject, to renew the assistance towards Emigration, which was previously afforded; for altho' orders to a considerable amount, in favour of Emig'ts, must have arrived in the Colony subsequently to the date of your Despatch, yet, as these payments could not have exceeded 8 or £10,000 at the utmost, a Balance of £10,000 would still remain at the close of last year; to which may be added a further sum of £10,000 arising from the Sales of Land during 1834, thus leaving a Sum of not less than £20,000 at the disposal of His Majesty's Government for the promotion of Emigration to New South Wales during the current year.

Expenditure on
immigrants.

The whole expense of despatching a Ship to New South Wales filled with Female Emigrants averages about £17 p. head. Of this Sum, the Government Contributes £12, whilst the Emigrant is required to furnish the remainder. One half of this Bounty will be advanced, as was the case in former Instances, by the Treasury on the departure of the vessel, to be repaid into the Military Chest; but the other half will not be required to be paid until after her arrival in the Colony.

These arrangements I have deemed it right to impart to you thus early, in order that you may be prepared to make the respective payments, whenever called upon to do so, by the arrival in the Colony of the Ships in question.

Whilst, upon this subject, I may observe that the Ships, which were despatched last year to New South Wales, contained many very eligible young Women who, after engaging their Passages, were found unable to make up the difference between the sum of £12 allowed by the Government, and that to which the actual cost of their passage amounted. This inconvenience was obviated by the Owners of the Ships consenting to receive, in lieu of the £5 which each Emigrant ought to have paid, a promissory note for £9, which those Females, from whom it was taken, undertook to repay out of their earnings. As this measure cannot but have an injurious tendency, I have been induced to consent to an arrangement, by which this accommodation to the Emigrant, if necessary, will in all future cases be afforded by the Government in lieu of the Owners of the vessels; the whole Sum of £17 being thus advanced upon the Emigrant giving a Promissory note to repay £6 in the manner before mentioned. By this means, the chance of any undue influence being exercised over the female, during the existence of her pecuniary obligation, will be avoided. Intimation at the same time will be given to the Parties that repayment of the Loan so made will be rigidly enforced, should any disposition be manifested by them to evade it when the means are conveniently in their reach. These Loans, in addition to the Moiety of the Bounty of £12, will also be advanced by the Treasury in this Country; so that it will be necessary that repayment be also made into the Military Chest of such portion of the Loans as may have been actually issued for the benefit of the Parties.

1834.
8 April.

Loans to female
immigrants
on account of
passage money.

The promissory Notes of the Females, who may be thus assisted, will be forwarded to you by the vessel in which the females may be conveyed; and you will of course take such precautions, as you may deem sufficient, for ensuring the validity in the Colony of the Promissory notes, which, as a greater measure of security, will be witnessed, previous to the vessel's departure, in the manner explained with respect to all other advances in a subsequent part of this Despatch.

Instructions
re promissory
notes.

The expense of each of the Female Emigrant Ships about to be despatched to the Colony will not exceed £3,000; whilst the funds available for the purposes of Emigration will, as before estimated, amount to £20,000.

Expenditure
on female
immigrant
ships.

It is not intended to send more than two Ships with Females to N. S. Wales during the present year, and I have decided that the remainder of the above Sum should be applied to the encouragement of General Emigration on the same principle as was

1834.
8 April.

Proposal
to send
agricultural
labourers as
immigrants.

adopted last Season; but that, instead of Mechanics, none but young and married *Agricultural Labourers* should be allowed to avail themselves of the Loan.

In furtherance of this measure, the accompanying notices* have been issued by this Department, explaining the Regulations under which the assistance of Government will be dispensed. These Regulations are very similar to those, which were in force, during the last season. There is one point, however, in which they differ, and to this I would particularly draw your attention. You are aware that the promissory Notes (required from the Emigrants accepting the Loan) were usually witnessed by the Collector or some other officer of Customs at the Port at which the Parties embarked; and that the Witnesses not being on the Spot to prove the signature attached to the note, many of these Emigts. had refused on their arrival in the Colony to acknowledge the obligation which it contained, and consequently to enter into a fresh Bond for the repayment of the Advance at a more distant period. To meet this Evil, it is now provided that the promissory notes shall be witnessed by the Captain and Chief Mate of the Vessel, in which the Emigrants may take their Passage; and it will be distinctly explained to the Masters of them that payment of any Advances will be withheld until the Parties, on whose behalf such advances may be ordered, shall have been produced before some competent officer of your Government, and shall have entered into a fresh obligation for the payment of their respective amounts. The Witnesses being thus on the Spot, compulsory measures can be adopted for forcing the Emigrants into a compliance with their engagements, should they shew any disposition to avoid them.

I have, in conclusion, to request that you will, on your part, take every necessary Step for carrying this Regulation successfully into effect, by appointing to this duty some officer, who can give his attention to it, in addition to his other avocations.

I have, &c.,

E. G. STANLEY.

GOVERNOR BOURKE TO RIGHT HON. E. G. STANLEY.

(Despatch No. 34, per ship Persian; acknowledged by right hon. T. Spring Rice, 16th November, 1834.)

12 April.

Sir, Government House, 12th April, 1834.

Transmission
of memorials
from J. Norris.

I have the honor to transmit herewith, pursuant to the established regulation, two Memorials from Mr. James Norris, late Storekeeper in the Dock Yard, Sydney, soliciting a grant of Land, in consideration of his services and of his unexpected

* Note 101.

reduction in January, 1831. I have only to remark on this case that on enquiring of the Colonial Secretary whether he knew of any reason why the applicant did not obtain land from General Darling, when thus reduced, since the present regulations did not reach the Colony till afterwards, the reason is stated by that Officer to have been that Mr. Norris had not sufficient capital to entitle him to a grant in conformity to the regulation then in force.

1834.
12 April.
Report re claim
of J. Norris.

I have, &c.,

RICHD. BOURKE.

[Enclosures.]

[Copies of these memorials are not available.]

GOVERNOR BOURKE TO RIGHT HON. E. G. STANLEY.

(Despatch No. 35, per ship Persian; acknowledged by right hon. T. Spring Rice, 16th November, 1834.)

Sir,

Government House, 15th April, 1834.

15 April.

Referring to my Despatch No. 74 of the 29th September last, and No. 9 of the 24th January last, in which I have expressed the reasons which have led me to abandon the design I had formerly entertained of diminishing the Stipendiary Magistrates of this Colony, I have the honor to report that I have appointed a Police Magistrate for Goulburn Plains and the surrounding Country, in which he will periodically visit two Stations at considerable distances from each other at a Salary of Three hundred Pounds a year in full of all allowances. I at first appointed to this office Major Breton of the 4th Regiment; but, as the retirement of Lieut. Colonel Mackenzie from that Corps rendered necessary the return of Major Breton to Head Quarters, I have appointed Francis Allman, Esqr., a retired Officer long settled in the Colony and for some time Acting as Police Magistrate at Illawarra, to which latter place I have appointed W. N. Gray, Esqr., in his stead.

Appointment
of F. Allman
as police
magistrate at
Goulburn
plains;

of W. N. Gray
at Illawarra;

I have likewise to report the appointment of Capt. Forbes, 17th Regiment, to be Police Magistrate at Patrick's Plains at a Salary of two hundred pounds a year in full of all allowances. This appointment is a new one, and became desirable in consequence of complaints of insubordination on the part of the Convicts, brought forward by some of The Magistrates and Settlers of the District, which, whether well or ill founded, tended to keep up a considerable excitement in that Quarter. The Convicts also had their complaints of ill treatment, and eight of those in the farm of a Mr. Mudie, a Justice of the Peace, in the Month of
, robbed his house and attempted the life of his Son in

and of
C. Forbes
at Patrick's
plains.

Reasons for
appointment of
C. Forbes.

law, for which offence five were executed on the spot and one transported to Norfolk Island for Life. These Culprits having on their Trial attributed the absconding and outrages, of which they had been guilty, to feelings excited by improper treatment on the part of their Master, evidence of which was tendered by the Council but refused to be received by the Court, and considerable interest in their fate having been evinced, I thought it right to order the Solicitor General and Principal Superintendent of Convicts to proceed to Patrick's Plains to investigate those complaints. The charges turned out to be for the most part unfounded; but the excitement, which these circumstances occasioned in the District, rendered highly desirable the presence of a Magistrate personally unconnected with it to Superintend its Police.

In these appointments, I have not hitherto exceeded the authority conveyed by your despatch No. 11 of the 25th May, 1833, enabling me to restore the original number of Police Magistrates; but I apprehend that pressing applications from various districts may oblige me to add one or both of the two, sanctioned by Lord Goderich's despatch No. 62 of the 25th January, 1832, before I can receive replies to the Despatches referred to at the commencement of this Communication.

I have, &c.,
 RICHD. BOURKE.

GOVERNOR BOURKE TO RIGHT HON. E. G. STANLEY.
 (Despatch No. 36, per ship Persian; acknowledged by
 under secretary Hay, 20th November, 1834.)

16 April.

Sir, Government House, 16 April, 1834.

I have the honour to transmit herewith a letter from the Principal Superintendent of Convicts stating that the loss* of the Prison Ship Amphytrite had occasioned uneasiness among some Convicts, who are expecting their wives and families from England under the Government Regulations, and are fearful that they may have embarked in that Vessel. I therefore take the liberty of soliciting from H.M. Government a list containing the names of any free women, who may have embarked on board for the satisfaction of these Persons.

I have, &c.,
 RICHD. BOURKE.

[Enclosure.]

[A copy of this letter is not available.]

* Note 102.

1834.
 15 April.
 Reasons for
 appointment of
 C. Forbes.

Probable
 further
 appointments.

Request for
 list of free
 women on ship
Amphytrite.

UNDER SECRETARY LEFEVRE TO GOVERNOR BOURKE.
(Despatch per ship Roslyn Castle.)

1834.
23 April.

Sir, Downing Street, 23 April, 1834.

I am directed by Mr. Secretary Stanley to desire that you will transmit to him, with the least possible delay, the following Returns, which have been called for by the House of Commons, vizt.:—

Returns
required of
lands sold
and granted.

“A Return of all Sales of Lands in New South Wales from 31st of Decr., 1823, to the 1st of January, 1834, distinguishing between Crown Lands, Crown Reserves and Clergy Reserves; and specifying in the order of date, on which such Sales were effected: 1st. The quantity of Land in each Lot; 2d. where situated; 3d. Conditions of Sale (such as credit given, etc.); 4th. Price per Acre; 5th. Monies received in payment; 6th. The Applications of said Monies.

“A Return of all Grants or appropriations of Crown Lands in New South Wales, without purchase, between 31st Decr., 1823, and 1st of January, 1834; shewing the Quantity of Land granted or appropriated to each holder, where situate, and under what conditions.”

I am, &c.,
JOHN LEFEVRE.

UNDER SECRETARY LEFEVRE TO GOVERNOR BOURKE.
(Despatch per ship Roslyn Castle.)

Dear Sir, Downing Street, 28 April, 1834. 28 April.

At the request of Mr. Shiel, M.P. for Tipperary, I beg to call your attention to the case of Eleanor Kennedy, whose husband died at New South Wales about the year 1826, leaving some property. On enquiry, I find that Mr. Barnard has never received any answer to the applications which, by direction of the Secretary of State, he made to your Predecessor for information on this subject, although upwards of six years have elapsed since the date of Mr. Barnard's first letter to General Darling. I have, therefore, to request that you will, with as little delay as possible, send home a statement of the property left by John Kennedy, and explain the course which the Widow should adopt for the purpose of recovering the money, if it should be impracticable to remit it to her without further delay.

Statement
required re
property left
by J. Kennedy.

I remain, &c.,
JOHN LEFEVRE.

P.S.—Mr. Barnard's letters to General Darling are dated 27th September, 1827, and 11th Decr., 1830.

1834.
29 April.

GOVERNOR BOURKE TO RIGHT HON. E. G. STANLEY.
(Despatch No. 39, per ship Persian; acknowledged by
earl of Aberdeen, 21st December, 1834.)

Sir, Government House, 29th April, 1834.

I have the honor to transmit herewith the Copy of a Minute of the Executive Council, recommending compliance with a proposal of Mr. Busby, The British Resident at New Zealand, for establishing a National Flag for the Tribe of that Country in their collective capacity, and that, upon such Flag being adopted by the chiefs, the measure should be submitted for the approval of His Majesty's Government, expressing likewise an opinion that, after the adoption and approval of this Flag, the Registers of Vessels built on the Island, to be granted by the Chiefs and certified by the British Resident, should be considered as valid instruments and respected as such in the intercourse, which such Vessels should hold with the British Possessions.

In accordance with this recommendation, I sent three patterns of Flags to New Zealand by the hands of Captain Lambert of His Majesty's Ship Alligator, and I have now the honor to transmit a drawing of the flag, which has been selected by the majority of the Chiefs, with Extracts from a letter of Mr. Busby describing the ceremony adopted on the occasion of assembling them for the purpose of selection.

I trust that the measures, which have been adopted on this subject, will meet with the approbation of His Majesty's Government, and that the necessary steps may be taken in accordance with the opinion of the Executive Council for giving effect to the New Zealand Registers, and for acknowledging the Flag.

I have, &c.,
RICHD. BOURKE.

[Enclosures.]

[A copy of this minute will be found in a volume in series II and of the other papers in a volume in series III.]

GOVERNOR BOURKE TO RIGHT HON. E. G. STANLEY.
(Despatch No. 40, per ship Persian; acknowledged by
earl of Aberdeen, 22nd December, 1834.)

30 April.

Sir, Government House, 30th April, 1834.

At the request of the Revd. J. J. Therry, a Roman Catholic Clergyman residing in this Colony, concerning whom some prior correspondence has taken place with His Majesty's Government, I have the honor to transmit herewith two printed copies of a

Proposal for
national flag
for Maoris;

and for
recognition of
New Zealand
registers of
shipping.

Petition
from Revd.
J. J. Therry.

Petition,* addressed by him to the Legislative Council and presented on the 2nd July last. The Petition was ordered to lie on the table, as I did not think I was authorized to take the opinion of the Council on any part of it. I have since spoken on the subject with the Vicar General, Mr. Ullathorne, on whose discretion and Judgement I place great reliance; and he has suggested to me that in his opinion it would be advantageous again to employ Mr. Therry as a Catholic Chaplain of the Colony. Mr. Ullathorne appears to have studied Mr. Therry's Character, and, though well acquainted with its defects, he seems to have obtained such control over him as would effectually prevent his giving any further trouble to Government, whilst his reappointment would certainly be a gratifying arrangement to very many of his religious persuasions. I have, &c.,

1834.
30 April.

Proposed re-employment of Revd. J. J. Therry.

RICHD. BOURKE.

GOVERNOR BOURKE TO RIGHT HON. E. G. STANLEY.

(Despatch No. 41, per ship Persian.)

Sir,

Government House, 1 May, 1834.

1 May.

By my despatch, dated 20th March last, No. 27, I had the honor to explain the reasons, which induced me to propose returning to England Elizabeth Bryan, an Idiot woman who came out under Bounty in the Bussorah Merchant. She was on the point of sailing by the Banks, the vessel which carried the original of the Despatch alluded to, when a difficulty arose as to providing her with proper attendance, which led the Captain to decline taking her. I have now arranged for her passage by the Enchantress, which is expected to sail early in this month; and I have associated with her Amelia Martin, who came out in the Layton, being when she embarked quite a cripple and who has consequently been an inmate in the Benevolent Asylum, a charge on the Colony from the Moment of her landing. She takes with her an infant to which as I understand she gave birth on her passage out.

Return of two female immigrants to England.

I have, &c.,

RICHD. BOURKE.

GOVERNOR BOURKE TO RIGHT HON. E. G. STANLEY.

(Despatch No. 42, per ship Persian; acknowledged by earl of Aberdeen, 12th March, 1835.)

Sir,

Government House, 2nd May, 1834.

2 May.

Frequent representations having been made to me by Mr. Hely, the Principal Superintendent of Convicts, of the want of sufficient assistance to conduct his increasing business, I directed the Auditor-General, the Commissary of Accounts and the

Assistance required by F. A. Hely.

* Note 103.

1834.
2 May.

Delays in office of superintendent of convicts.

Appointment of four additional clerks.

Salaries proposed for senior clerks.

Expenditure involved.

Printing of convict indents.

Collector of Internal Revenue to investigate the Department, and I have the honor to transmit herewith the Report of these gentlemen, from which it will appear that they consider the representations of Mr. Hely well founded. The public service has suffered great inconvenience by the delays which have occurred in his office. The slow preparation of the Returns of Convicts, which I expect to transmit by the present opportunity, has been already complained of by H.M. Govt., and the delays, which affect the internal business of the Colony, are of a nature peculiarly oppressive by prolonging the servitude of great numbers of persons through the want of Tickets of Leave and Certificates of freedom. Having therefore ascertained that the evil is attributable to want of proper assistance, I have felt it due to the public service to appoint immediately four additional Clerks, being the number which appears necessary according to the accompanying Report to enable Mr. Hely to conduct the business of the Department without incurring further arrears. These appointments at Salaries of £100 a year each, I have now the honor to submit for approval. With a view to the permanent establishment of the office on a satisfactory footing, I have the honor further to transmit a letter from the Principal Supt. of Convicts, proposing a Scale of Salaries which fixes at higher rates than the present the remuneration to the six senior Clerks. The present Salaries he states to be so low as to render it impossible to retain for any length of time the services of Competent persons. The difference in Expense between the scale proposed by Mr. Hely and the present would amount to £210 a year, exclusive of the Salaries of the four additional clerks, to each of whom it is proposed to allow £100 per annum, making in the whole £610 beyond the expense of the present establishment. In connexion with the business of the department, I beg leave to take this opportunity of stating that the great expence and inconvenience, occasioned by the constant necessity of referring to Sydney for the purpose of identifying Convicts claiming certificates of freedom, and for other matters requiring reference to the Indents sent out with these persons from Great Britain and Ireland, led me to decide upon printing a certain number of copies of those Indents to be lodged with the several Benches of Magistrates in the Country Districts and with other public Functionaries, by referring to which a convict might at once be identified. In the Accompanying Report, pages 7 and 8, you will find this measure strongly recommended. I have directed the printing to commence with the year 1833; and, whilst I regret to say that the expense will amount at the present contract scale for printing to about £500 in the year, I cannot avoid pressing

H.M. Govt. to allow an expenditure, which will at once effect a very considerable saving in escorting and victualling Convicts, and prevent the irregularities which are necessarily incident to these frequent removals from the country to Sydney.

1834.
2 May.

I ought not to conclude a Despatch, in which an additional annual expense in one office of £1,110 is proposed, without briefly calling to your recollection the causes which have rendered the expenditure necessary. These are the increased and increasing number of Convicts, the intention of His Majesty's Government having been lately expressed to continue these Colonies as the principal seats of transported offenders; the necessary dispersion of those persons over a greater extent of territory, by which the discipline and transmission of the Convicts and the communications required for the purposes of regularity in returns and accounts are rendered more expensive; the orders of H.M. Govt. for the punctual transmission to England of voluminous returns; these causes have produced the necessity for the increased expenditure called for in this despatch, and they will infallibly lead to still more expensive demands for an increased number of Police Magistrates and Constabulary, for Gaols and Bridewells, and an additional Military force.

Causes of
increased
expenditure.

I have, &c.,

RICHD. BOURKE.

[Enclosures.]

[Copies of these papers are not available.]

GOVERNOR BOURKE TO RIGHT HON. E. G. STANLEY.

(Despatch No. 43, per ship Persian; acknowledged by
earl of Aberdeen, 22nd December, 1834.)

Sir,

Government House, 3 May, 1834.

3 May.

I have the honor to transmit herewith the Copy of a letter, addressed to the Colonial Secretary by Mr. Assistant Surveyor Abbott, soliciting leave of absence to proceed to England. I have granted this request on the understanding that Mr. Abbott shall report himself at the office of the Secretary of State for the Colonies on arrival in England, and that his future continuance in the Survey Department of this Colony and any allowance to be made to him during his absence shall be wholly dependent on the view, which His Majesty's Government may be pleased to take of his case.

Leave of
absence granted
to J. Abbott.

The enclosed letter is forwarded to shew the grounds, upon which he rests his claim to peculiar indulgence; and I have the authority of the Surveyor General for stating that his health has suffered considerably from employment on the Coast Survey.

1834.
3 May.

Leave of
absence
granted to
J. B. Richards.

I had previously given leave of absence on the same terms to Mr. Richards, a Surveyor of the Department, who wishes to proceed to England on his private affairs; of this permission he is about now to avail himself, and will also report himself on his arrival at the Secretary of State's Office.

Want of
report from
T. L. Mitchell.

I beg leave further to state, with reference to your Despatch of the 15th June, 1833, No. 17, in which you require the Surveyor General to furnish me with the names of all those persons belonging to his Department, whom he considers essentially necessary to this branch of the Service, and direct me to adopt measures for reducing all those who may not be included in the Surveyor General's list, that I have not received the required Report from the Surveyor General, and am therefore unable to say whether any and what reductions will be recommended by him. He has however informed me, in reply to my application to him on the subject, that he has no particular wish for the continuance in employment of Messrs. Richards and Abbott in preference to others who remain here; but he adds that Mr. Richards is of long standing in the Department, having been appointed in July, 1824, and that Mr. Abbott's health, as I have before stated, has suffered considerably from employment on the Coast Survey. Under these circumstances, I should certainly prefer making whatever reduction may be determined upon from the bottom of the List instead of removing one gentleman, who has claims from length of service and another from the injuries which his health has received in the discharge of his duties.

Statements re
J. B. Richards
and J. Abbott.

I have, &c.,

RICHD. BOURKE.

[Enclosure.]

ASSIST. SURVEYOR ABBOTT to COLONIAL SECRETARY MACLEAY.

Sir, Sur. Gen. Dept., Emu Plains, 17th Dec., 1833.

Application
by J. Abbott
for leave of
absence.

In consequence of the very debilitated state of my health, the result of several severe attacks of Rheumatism, I have the honor to inform you that I feel compelled to follow the suggestions of my medical advisers, and to apply for the sanction of His Excellency the Governor to my obtaining leave of absence, in hopes that by taking a long sea voyage I may derive the benefit which I am led to expect therefrom.

Privations
endured on
coast survey.

It is now upwards of six years since I was appointed an assistant Surveyor of Crown Lands by the Secretary of State for the Colonies; and, since my arrival, I have constantly been employed in the field. The first illness, which I have experienced, occurred whilst employed with another Surveyor on a Coast Survey in a small decked boat, when for about four months we endured severe privations, having no opportunity of procuring fresh provisions, sleeping constantly on the ground and in the open air without even

the shelter of a Tent, and being obliged to walk all day for a week at a time, carrying our rations on our backs, during which time we could not take off, much less change any of our clothes. Since then, I have had four very severe attacks attended with fever, confining me to my bed for 3 to 4 months at a time, and always originating in consequence of my having caught cold or over-fatigued myself (being very weak since my first attack) whilst employed on Surveying duties; and I am at this moment just recovering from the last and most severe attack, which I have yet experienced. Indeed had it not been for the Surveyor General's indulgence in appointing me to a station where the duties are much less arduous and fatiguing than any other Officer in the Department has to endure, and for which indulgence I feel grateful, I must have made this application 12 Months ago.

1834.
3 May.

It is now my misfortune to possess a ruined Constitution, whereby I shall derive little benefit from the labour and experience of 6 years; as I fear I shall never be strong enough to bear the fatigues which an active Surveyor must necessarily undergo. I am therefore desirous of proceeding to England, and there to report myself to the Secretary of State for the Colonies; and I beg leave respectfully to state that I hope his Excellency the Governor will be pleased to grant me a longer Leave of Absence than is usually granted for a voyage to Europe, say for the period of two years. My reason in asking for this indulgence is that I feel my constitution is so completely broken, that I shall require a long relaxation from labour; and my Father's death,* who has served Government in the first offices of Rank and trust, both in this Colony and Van Diemen's Land, renders it necessary that I should visit the latter Colony before proceeding onwards to England.

Reasons for
application.

I therefore do myself the honor of requesting that you will have the goodness to submit for the pleasure of His Excellency the Governor this application for Leave of Absence. I have, &c.,

JOHN ABBOTT, Assistant Surveyor.

GOVERNOR BOURKE TO RIGHT HON. E. G. STANLEY.

(Despatch No. 45, per ship Persian: acknowledged by the duke of Wellington, 5th December, 1834.)

Sir,

Government House, 5 May, 1834.

5 May.

I have the honor to transmit herewith a Copy of the Minutes of proceedings of the Executive Council on a Map of a considerable part of this Colony being presented by the Surveyor General, divided into Counties and recommended by him for adoption and proclamation, pursuant to the 18th Clause of H.M.'s Instructions† to the Governor of New South Wales. To these Minutes are appended the official communications from the Surveyor General on the subject, and the Map on which the proposed divisions are traced accompanies this Despatch. You will perceive, in one of the Surveyor General's letters, reference to the observations made in your Despatch of the 15 June, 1833, No. 17, upon the manner in which his Department has been

Papers re
division of
colony into
counties.

1834.
5 May.

conducted, that despatch having been communicated to him immediately after its receipt in the Colony. I shall not however enter at present on the subject of those observations, as a more appropriate opportunity will offer, when I shall receive from the Surveyor General for transmission the Report called for in connexion with them. I shall here confine my attention to the divisions traced on the accompanying Map, and to other matters connected with its execution.

Counties with
excess of
maximum
area ordered.

It will be observed that several of the proposed counties exceed the maximum contents* allowed by His Majesty's instructions. The Council are however fully convinced, as expressed in their Minute of the 17th March, that on the whole no better arrangement for circumscribing the Counties by natural boundaries can be devised. With regard indeed to the two extreme Counties in the North and South, namely Gloucester and St. Vincent, an alteration in which would not derange the boundaries of the rest, The Council recommended that the Surveyor General should either reduce them or state more fully his reasons for considering the reduction impracticable or inexpedient. It will appear, from the Minute of the 9th of April in connexion with the Surveyor General's letter of the 4th of that month, that arrangements have been made for reducing the County of Gloucester so as to accord, if possible, with the Instructions, but that it is considered impracticable to alter with advantage the size of St. Vincent's.

Letters patent
proposed for
counties.

Under these circumstances, the Council have recommended that application be made to His Majesty for permission to establish by letters Patent issued in the Colony, in conformity with the Royal Instructions, the divisions of the Counties as proposed by the Surveyor General. I concur fully in the recommendation, and have the honor to request authority for carrying its objects into effect.

Proclamation
of county of
Cumberland.

In the mean time, the County of Cumberland, which is the most important from its population and central situation and does not exceed the authorized dimensions, will be proclaimed without further delay with its hundreds and Parishes in accordance with the King's Instructions.

Counties with
undefined
boundaries.

It will be seen, by referring to the description of the Boundaries contained in the Appendix to the Minutes of Council transmitted herewith, that it has not at this time been possible to close in the Boundaries of the Counties, named in the margin,† so as to calculate their contents with exactness; but, as it will be the object of the Executive Council to render the contents as nearly as possible conformable to Instructions, without losing

* Note 105.

† *Marginal note.*—The margin is blank.

sight of the paramount advantage gained by the selection of natural boundaries, I venture to request authority to establish and proclaim these Counties, when finally measured by the Surveyor General and approved by the Council, without any further reference to His Majesty's Government. I beg leave to add that, since the Surveyor General laid a Copy of his Map before the Council, he has finished off a second with some additions and illustrations, which render it much more complete. I have the honor to forward it in the same case with the first, which is marked as having been laid before the Executive Council.

1834.
5 May.

Maps
prepared by
T. L. Mitchell.

Having disposed of this part of the subject, I very willingly undertake, at the request of the Surveyor General, to solicit your favorable consideration of his private interests as connected with the publication of the Map* now transmitted. The Surveyor General has had it engraved in the Colony at his own expense and has expended a considerable sum of money to accomplish it in a satisfactory manner. He is desirous of publishing the Map, as well to reimburse him in the expense he has incurred, as to obtain whatever reputation as a geographer and an artist the production of such a work, certainly of no ordinary merit, may obtain for him. He purposes to strike off about two hundred copies of the Map here, and to forward them to England for sale in about two months from this date. The proposed sale is, however, to be subject to the Commands of His Majesty's Government; and I shall have the honor to inform you, when the Copies are sent off, and to what Person in London your prohibition of sale is to be addressed, should such a measure appear to be necessary. I trust indeed that no such interruption may take place, but that the Surveyor General may be honored with the protection and patronage of His Majesty's Government, a favor which I understand he has in some measure been led to expect from communications made to him by the Under Secretary of State on his leaving England for this Colony.

Request by
T. L. Mitchell
for permission
to publish maps
of colony.

I beg leave to add that, in order to render the proposed sale by the Surveyor General of any value, it will be necessary to give directions at the Colonial Office that the Copies of the Map, now transmitted, be kept out of the hands of any Printers or Publishers of Maps, or other Persons likely to anticipate the Surveyor General's design. I would further request authority to take twenty copies of the Map at the selling price for the use of the public offices of this Colony.

I have, &c.,

RICHD. BOURKE.

* Note 106.

[Enclosure.]

1834.
5 May.Minute of
executive
council *re*
division of
colony into
counties.

EXTRACTS from the Proceedings of the Executive Council relative to the Survey of the Colony and its division into Counties.

EXTRACT from Minute No. 7, dated 17th March, 1834.

Present:—His Excellency the Governor; The Hon. Lieut. Col. Snodgrass; The Hon. the Colonial Secretary.

His Excellency the Governor laid before the Council a Report from the Surveyor General upon the survey and division of the Territory of New South Wales, together with a map of the Colony, divided into Counties and accompanied by a description of their proposed boundaries; and His Excellency now submitted the same for the consideration and approval of the Council in order to the Counties being proclaimed as directed and required by the King's Instructions.

The Surveyor General having been introduced pointed out upon the Map the boundary lines of the several Counties, and explained to Council his reasons for their adoption. The Council, after an attentive and mature consideration of the subject, approved of the proposed division of the Colony into Counties as delineated on the Map, notwithstanding that some of them comprise a larger extent than the maximum authorised by the King's Instructions; the Council feeling assured, from the care and attention bestowed by the Surveyor General in procuring accurate surveys of the Mountain ranges and streams throughout the whole extent of Country described on the Map, that no better arrangement for circumscribing the Counties by natural boundaries can be devised, and that, in a Country so broken as the part of New South Wales now under consideration, no other than natural boundaries ought to be adopted. The Council do not, however, advise the issuing Letters Patent to establish the divisions of the Counties whose dimensions are in excess, until His Majesty's commands shall be received to such effect, for which they recommend an immediate application through the Secretary of State for the Colonies. They recommend also a copy of the Surveyor General's Report with the Map and description paper to be transmitted for his information. Before the Map is sent off, the Council advise that the Boundary of the County of Bathurst be completed, as well as that of the County of Bligh, if time and means will permit, and that the Surveyor General be desired either to reduce the extreme Counties of St. Vincent on the South and Gloucester upon the North to the maximum extent of the King's Instructions, or to state more fully the reasons, which in his opinion render such a reduction impracticable or inexpedient.

EXTRACT from Minute No. 8, dated 9th April, 1834.

Present:—His Excellency the Governor; The Hon. Lieut. Col. Snodgrass; The Hon. the Colonial Secretary; The Hon. the Colonial Treasurer.

In reference to the proceedings on the 17th ultimo, His Excellency the Governor laid before the Council a letter from the Surveyor General, stating that he had given such directions for the Survey of the Counties of Bathurst and Bligh as were necessary to the completion of their respective Boundaries, and that he hoped soon to complete those of the former, but was doubtful whether the surveys of the Western limits of Bligh could be accomplished in time for the intended transmission of the Report. Map and descriptions to the Right Honorable the Secretary of State.

The Surveyor General also States, in reference to the recommendation of the Council that he should be called upon either to reduce the Counties of Gloucester and St. Vincent to the maximum extent authorised by the King's Instructions, or to explain more fully his reasons why such a reduction is impracticable or inexpedient, that the County of Gloucester may be reduced without difficulty, its present magnitude being given to it chiefly because the River Manning is the only surveyed line on the North West thereof. With respect to the County of St. Vincent, he represents that the Northern portion is so shut in by the Shoalhaven River, whose banks consisting in many places of 1,500 feet of perpendicular rock are so impassable that it is only accessible by sea, and that the interior is entirely a barren mountainous country, while in the Southern portion, where both on the sea and land side the land is better. Grants have been chiefly selected, and these have been described as in the County of St. Vincent.

1834.
5 May.

Minute of executive council *re* division of colony into counties.

The Council, after an attentive consideration of the Subject, advised for the reasons stated by the Surveyor General that the boundaries of the County of St. Vincent as delineated and set forth in the Map and description submitted for their inspection on the 17th instant should be recommended by His Excellency the Governor for His Majesty's approval.

The Council also recommended that arrangements should be made for proclaiming the County of Cumberland with its Hundreds and Parishes as required by the King's Instructions.

True Extracts:—E. DEAS THOMSON, Clk., Col.

[Appendix No. 1.]

SURVEYOR-GENERAL MITCHELL TO COLONIAL SECRETARY MACLEAY.
(No. 34/98.)

Sir, Surveyor General's Office, 25th February, 1834.

I have the honor to Submit, with reference to the Letter of The Right Honorable The Secretary of State enclosed to me in Yours of the 13th November last, the following report on the Survey, Division, etc., of the Territory of New South Wales, according to the instructions of the late Governor, dated 19th October, 1831.

Report on survey, division, etc., of colony by T. L. Mitchell.

Before I advert to the other objects, which his Majesty's Government desire to see accomplished, and which appear to be embodied in the Instructions* under thirteen distinct heads, I have now to explain why it has not been in my power to transmit sooner this my first general report on the Survey and Division of the Territory of New South Wales.

I would, therefore, beg to refer His Excellency the Governor to the first two heads of these Instructions, by which I am required to divide and apportion the whole Territory into Counties, Hundreds, and Parishes, which are to include a certain extent of Surface, and by which I am directed to have regard to all such natural Divisions, as may be formed by Rivers, Streams, Highlands, or otherwise, and to prefer them as boundaries, provided that no County, Hundred, or Parish should exceed or fall short of the given dimensions to the extent of more than one third part thereof. On this important duty, I have to observe that it has ever appeared to me to involve the necessity of Surveying the Country, and, although it has been my most anxious wish to accomplish the objects of His Majesty's Instructions, I have never been able, any more than my predecessor or any of the Commissioners, to devise

Reasons for delay in submitting report.

* Note 105.

1834.
5 May.
—
Reasons for
delay in
submitting
report.

any other mode by which the whole could be divided by natural limits into parts containing given quantities; and as the subordinate divisions and reservations, to which the attention of the Commissioners was also directed, could only be made, as appeared to them, with reference to greater divisions, it has hitherto been found that the commencement of the duties required of the Commissioners depended on the completion in the first instance of a Survey of the whole Territory.

In New South Wales, the natural features are of so formidable a character, and occupy so much of the Surface, that the Lands of Settlers are, in very many cases, isolated and remote from each other; rocky, impassable ranges and barren tracts intervene, and the Survey of Such features of the Country, as Rivers or lofty ranges, does not appear more desirable for the political division of the Country than it has been for the measurement of each portion of granted Land in its proper place, or, in other words, for the purpose of determining the extent and value of what lands still remain waste and unoccupied, which was another of the objects intended to be accomplished by the Commissioners.

Preparation
of map.

Such natural features appeared to me entirely to govern also the direction of great Roads, and consequently the position of Towns and Villages, which can only be established on such great lines of communication. In short, in every branch of my duty whether as Surveyor General, or Commissioner under His Majesty's Instructions for the Division and valuation of the Territory, a general Survey of the Country seemed equally essential to the due performance thereof. That I was fully impressed with the importance of these duties, and animated with sufficient zeal for their performance, I have the honor to submit as a proof the accompanying Map, the result of a trigonometrical Survey made by me, and in the performance of which I obtained a sufficient knowledge of the Country to enable me to direct the operations of the Surveyors and also to carry into effect accordingly, as it advanced, the objects of His Majesty's Instructions. With this view, after completing the angular Survey, I have cheerfully directed every leisure moment to the compilation of a work, by means of which I have already accomplished much for the Public Service; and I have the highest satisfaction in Stating that the materials, from which this Map has been compiled, are chiefly the work of some of the Youngest Assistant Surveyors and Draughtsmen, while the usual business and occupation of the others, namely, the measurement of Farms which were much in arrear, has proceeded without interruption. The materials thus obtained are of the most accurate description, and must ever be considered valuable documents for the compilation of Maps on a much larger Scale.

Map and
description
of counties.

I have now the honor to Submit the present Map, with a view to define the limits and extent of the Counties, as first promulgated in the Government Order of the 14th October, 1829; and I have the honor to submit for the approval of His Excellency the Governor, and with reference to the sixth head of the Instructions of the 19th October, 1831, a series of more perfect descriptions of the Counties therein mentioned, the limits thereof, as thus described, being also defined by a distinguishing color on the accompanying Map.

Having thus endeavoured to account for the non-transmission at an earlier period of these descriptions, or any formal reports of

my progress in dividing and apportioning the whole Territory, an explanation which, I sincerely hope, will be considered satisfactory by His Majesty's Government, I consider it my duty in obedience to the Instructions also to state what progress has been made in the accomplishment of some other objects to which my attention has been also especially directed thereby, and which it has been my study to keep in view, and accomplish progressively, in conducting the current business of the Department committed to my charge.

By the *third* head of the Instructions aforesaid, I am required carefully to ascertain and report for His Excellency the Governor's approval what tracts or pieces of Land I would recommend as proper to reserve in each County, Hundred and Parish, for Public Roads and other natural communications, whether by land or water, or as the Sites of Towns, Villages, Churches, Schools, or Parsonage Houses, or as places for the interment of the dead, or as places for the future extension of any existing Towns or Villages, or as places fit to be set apart for the recreation and amusement of the Inhabitants of any Town or Village, or for promoting the health of such inhabitants, or as the sites of Quays and Landing places on the Coast, or in the neighbourhood of navigable Streams, or which it may be desirable to reserve for any other purposes of public convenience, utility, Health, or Enjoyment. On this head I beg to observe that on all such points it is usual for His Excellency the Governor to require my report, and that, in fact, much correspondence passes daily from my Office on such Subjects, all which appears to be consistent with the *thirteenth* or last head of the Instructions already quoted; and I trust it will be found that, in allotting any portions of new Country, the reserves requisite for all the objects specified in the Instructions have kept pace. I shall also endeavour to embody in my Reports on each County what information has already been submitted, respecting particular localities, whether as regards Public Roads, Towns, Villages, etc.

On the Subject of the Eighth head, which requires Lists of all Parishes which have been approved (after my Report submitted as Commissioner), and on which Crown Lands remain for Sale, together with Charts of the same to be publicly exhibited in my Office; I beg to Suggest, conformably with the twelfth head of the Instructions, that, as the Crown Lands are considered open for purchase at present throughout the whole extent of the Territory, and as all the Maps in the Office are open to the inspection of the public, the exhibition of Charts of tracts nominally Parishes, but which according to the general quality of the soil and nature of the Country might contain but little land eligible for Settlers, can perhaps be dispensed with without inconvenience, at least until it is determined to limit the Sale of land to particular districts, a measure which would be found very convenient to my Department, and admit of its diminution; but which, I fear from the extent of the Country already partially located, could never be carried into effect with equal benefit to all the Colonists.

The object of the *ninth* head, requiring all lands sold to be exhibited on the Charts in the Office is fully accomplished, all such lands being measured and charted even before the lands are sold. I have the honor further to observe in concluding this Report, of which the chief object is the Division of the Colony into Counties, which has hitherto proved the first and insurmountable step towards the performance of the duties required of the Commissioners

1834.
5 May.

Selection of
reserves for
public purposes.

Proposal
to suspend
exhibition of
charts of land
for sale.

1834.
5 May.
County maps to
be compiled.

that, as soon as I shall be informed of the approval of His Excellency the Governor of these Divisions, I shall direct the compilation of County Maps and prepare reports to accompany them, in which I shall endeavour to embrace in detail the various Subjects to which my attention has been directed by the Instructions aforesaid.

I have, &c.,

T. L. MITCHELL, Surveyor General.

[Appendix No. 2.]

Description
of boundaries
of counties.

DESCRIPTION of the Boundaries of Counties* in New South Wales, according to the division thereof by the Commissioners and the Surveyor General to accompany the Map of New South Wales and the Report, dated 25th February, 1834.

Cumberland.

No. 1. *County of Cumberland*.—Description: Bounded on the North and West by the Rivers Hawkesbury and Nepean; on the South West and South by the Nepean, the Cataract River and a line bearing East twenty degrees South to Bulli on the Sea Coast, which forms the Eastern boundary. Superficial contents in sq. miles, 1,514 $\frac{1}{4}$. Remarks: Botany Bay, Port Jackson and the Inlets of the Hawkesbury are not included.

Camden.

2. *County of Camden*.—Description: Bounded on the North by a line bearing West, twenty degrees North from Bulli on the Sea Coast, to the head of the Cataract River, thence by that River and the Nepean to its junction with the Wollondilly (there called the Warragamba); On the West by the River Wollondilly to the junction of the Uringalla, commonly called Paddy's River; and by the Uringalla and Barber's Creek forming the boundary between Camden and Argyle, to the Shoalhaven River; on the South by the Shoalhaven River to the Sea Coast, which forms the Eastern boundary. Superficial contents in sq. miles, 2,188 $\frac{2}{3}$. Remarks: The maximum allowed by the Instructions is 2,133 $\frac{1}{3}$ Square Miles. Camden therefore exceeds it by 55 $\frac{1}{3}$; but the boundaries on the side of Cumberland have been so long fixed, and those on the other Sides are so strong, that this excess, especially considering the utter uselessness of the Nattai district, will not I trust be objected to.

Saint Vincent.

3. *County of Saint Vincent*.—Description: Bounded on the North and west by the Shoalhaven River; on the South by the Wianbene Creek to its source, and thence by the Moodong Creek and the Moruya River to the Sea Coast, which forms the Eastern boundary. Superficial contents in sq. miles, 2,709. Remarks: This is the most extensive of all the Counties, the excess being 575 $\frac{2}{3}$; but the Commissioners were aware of this, and could not make any better arrangement, the land being Shut up on two Sides by the impassable banks of the Shoalhaven River, and confined on the South, by the limits of the Colony,† so as not to admit of another County on that Side; the whole is however Mountainous, with the exception of some patches on the Sea Coast and Inlets, and on the upper part of the Shoalhaven River.

Northumber-
land.

4. *County of Northumberland*.—Description: Bounded on the North by the River Hunter; On the West by Wolombi Brook to the junction of Parsons Creek; by that Creek to its head in the Range, dividing the Waters of the Hawkesbury from those of the Hunter; by Wareng Creek to its junction with the River Macdonald or lower Branch of the Hawkesbury; and by the said lower branch to its junction with that River; on the South by the Hawkesbury to the

* Note 107.

† Note 108.

Sea Coast, which forms the Eastern boundary. Superficial contents in square miles, 2,342½. Remarks: This County exceeds the maximum by 209, but this includes the various Shoal Lagoons on the Coast, vizt., Brisbane Water, 6,634 acres; Tarrigal Lagoon, 220 acres; Cokrone, 114 Acres; Bulbararing, 137 Acres; Lake Macquarie, 27,923 Acres; Tuggerah Beach Lakes, 18,878 Acres—53,906 acres, or 84¼ square miles, which reduces the excess to 125 Square Miles. It will be seen by the Map that the greater portion is mountainous, and that description of land is so barren that the good land may be considered as bearing a very small proportion to that for which the extent of Counties was originally fixed.

1834.
5 May.

5. *County of Gloucester.*—Description: Bounded on the North by the River Manning to its sources on the Mount Royal range, in latitude 31° 56' 40"; on the South West by that range to the head of Williams River, and by that River to its junction with the River Hunter, and by the Hunter to the Sea Coast; on the South East and East by the Sea Coast. Superficial contents in sq. miles, 2,701. Remarks: This, next to Saint Vincent, is the most extensive County, the excess being 567⅔ exclusively of the various inlets of the Sea. Greater part of this County has been granted to the Australian Agricultural Company. Besides the Harbours, there are several Shoal-lagoons on the Coast, not included in the Contents; these are: Myall Lake, 20,600 acres; Wallis' Lake, 16,630 acres; Smith's Lake, 2,209 acres—39,439 acres or 61½ Square Miles.

Gloucester.

6. *County of Durham.*—Description: Bounded on the North East by the Williams River to its source, and thence by the Mount Royal Range to the head of the River Hunter, in Lat. 31° 46', and by that River on the West and South to the junction of Williams River above mentioned. Superficial contents in square miles, 2,117½. Remarks: This is less than the maximum by 16 Square Miles.

Durham.

7. *County of Hunter.*—Description: Bounded on the North by the River Hunter and the Goulburn to the junction of Widdin Creek; On the West by Widdin Creek to the Mountain of Corieudgy; by the Range thence to Durambang Hill. On the West by Umbrella Creek to the River Colo; On the South by that River to the Hawkesbury; on the East by the Hawkesbury to the mouth of the Macdonald River or Lower Branch; on the East by the Macdonald to the junction of Wareng Creek, and by Wareng Creek, Parsons Creek, and Wolombi Brook to its junction with the Hunter. Superficial contents in square miles, 2,056.

Hunter.

8. *County of Cook.*—Description: Bounded on the North East by the Colo River; On the West by Cook's Creek to its source in the Dividing Range; by that Range to the Honeysuckle Hill; thence by Solitary Creek to its junction with Antonio's Creek at the boundary of Westmoreland; on the South by two small creeks from the dividing range in a direction due East from the aforesaid junction to Cox's River, one mile South of the new Road; on the South by Cox's River; and on the East by the Warragamba, Nepean, and Hawkesbury, to the junction of the Colo as aforesaid. Superficial contents in square miles, 1,665½. Remarks: This County is nearly of the given medium extent.

Cook.

9. *County of Westmoreland.*—Description: Bounded on the North East by the Cox's River from its junction with the Wollondilly to the small creek entering the Cox from the West, one mile South of the new Road to Bathurst; On the North by that Creek and one descending to Solitary Creek, near its junction with Antonio's Creek,

Westmoreland.

1834.
5 May.

and thence by the Fish River to Campbell's River; On the West by Campbell's River to its source in the Dividing Range; and by the Dividing Range to Burra Burra Lagoon; on the South by the River Guinecor from Burra Burra Lagoon to its junction with the Wollondilly; On the East by the Wollondilly to the junction of Cox's River above-mentioned. Superficial contents in square miles, 1,592½. Remarks: This County is only 7½ Square Miles less than the given medium extent.

Argyle.

10. *County of Argyle*.—Description: Bounded on the North by the River Guinecor, from its junction with the Wollondilly to its source near Burra Burra Lagoon on the dividing Range; On the West by the dividing range from Burra Burra, by Cullarin to Lake George, including the three Bredalbane Plains. On the South by the Northern Margin of Lake George to Kenny's Station, from Lake George to the Alianoyonyiga Mountain by a small gully descending to the Lake; from Alianoyonyiga by the Ridge extending South East to the Hill of Wolowolar, and from Wolowolar by Boro Creek to the Shoalhaven River to the junction of the Rivulet from Barbers; by the rivulet from Barbers to its source across a narrow neck of land to the head of the Uringalla; by the Uringalla to its junction with the Wollondilly; and by the Wollondilly to the junction of the Guinecor above mentioned. Superficial contents in square miles, 1,951. Remarks: This exceeds the medium by about half as much as the excess allowed. Lake Bathurst which is not included in the calculations contains 7 Square Miles.

Murray.

11. *County of Murray*.—Description: Bounded on the North East by the Boro Creek from its junction with the Shoalhaven River to its source in the Hill of Wolowolar; by the range thence to Alianoyonyiga Mountain between Lake George and Lake Bathurst and by a Watercourse descending from that Mountain to Lake George; by the Northern shore of Lake George to the Hill in the dividing range, the range on the West overlooking its Northern extremity and thence by Gundaroo Creek and Yass River to the Murrumbidgee; on the West by the Murrumbidgee River to the junction of Micaligo Creek; on the South by that Creek to the Twins or Tinderry Pies, passing between them to the source of Tinderry Creek, and by that Creek to Queenbeyan River; by that River to the Creek entering it from the Hill called Tamannang, and by a line from the source of Jerrabatgulla in that Mountain to the junction of Currabene Creek with the Shoalhaven River, and on the East by Shoalhaven River to the junction of Boro Creek. Superficial contents in square miles, 2,247¼. Remarks: This exceeds the maximum by 114, exclusively of Lake George, which is in this County and contains 69 Square Miles.

King.

12. *County of King*.—Description: Bounded on the East by the dividing range forming the Western boundary of the County of Argyle from the head of the Crookwell River, in Lat. 34° 30' to the head of Gundaroo Creek near Lake George; On the South by Gundaroo Creek and the River Yass to the junction of Derringullin Creek near Bowning Hill. On the West by the Range of Bowning Hill to the head of Boorowa River; and by that river to its junction with the Lachlan; On the North East by the Rivers Lachlan and Crookwell to its Source as before mentioned. Superficial contents in square miles, 1,781¼.

Georgiana.

13. *County of Georgiana*.—Description: Bounded on the East by the dividing range, extending from the head of the Crookwell in

Lat. 34° 30' by Burra Burra Lake and Mount Werong to the head of Campbell's River; on the North by Campbell's River to Pepper Creek; On the West by Pepper Creek and the range extending from its head towards the source of Rocky Bridge Creek, and by that Creek and the Abercrombie to the River Lachlan; On the South by the Lachlan and the Crookwell to its source as aforesaid.

1834.
5 May.

14. *County of Bathurst.*—Description: Bounded on the North East by the River Campbell from Pepper Creek, and the River Macquarie to the junction of Lewis' Ponds; On the West by Lewis' Ponds Creek to Blackman's Swamp, and thence by range to the Conobolas Mountains, thence by the Panuara Range, and Panuara rivulet to the Belubula Stream, and by that Stream to its junction with the Lachlan; On the South by that River to the Abercrombie and the junction of Rocky Bridge Creek, also by that Creek and the Range to the Head of Pepper Creek, and by that creek to the River Campbell as aforesaid. Remarks: The contents of this County cannot yet be determined. The Belubula river (one of its boundaries) not having been yet surveyed to its junction with the Lachlan.

Bathurst.

15. *County of Roxburgh.*—Description: Bounded on the North by the River Cudgegong from Mount Durambang by Canuddy Creek to the junction of Cudgegong Creek, on the East of Mount Cobogle; On the West by that Creek, and by a Creek in the opposite direction beyond the Range descending to Cunningham's Creek, and by Cunningham's Creek and the Turon River to the Macquarie; On the South by the River Macquarie and the Fish River to the junction of Solitary Creek. On the East by Solitary Creek to Honeysuckle Hill, and thence by the Dividing Range to the head of Cook's Creek, and by that Creek, the Cudgegong River, and Umbrella Creek to Mount Durambang aforesaid. Superficial contents in Square Miles, 1,519. Remarks: The contents of this County are somewhat less than the medium extent allowed.

Roxburgh.

16. *County of Phillip.*—Description: Bounded on the North by the River Goulburn, from its Source near the head of Wialdrar Creek to the junction of Widden Creek; On the North West by Wialdrar Creek to the Cudgegong River; On the South by the Cudgegong River from its source at Mount Durambang to Wialdrar Creek. Superficial contents in square miles, 1,618½. Remarks: Nearly of the given medium extent.

Phillip.

17. *County of Brisbane.*—Description: Bounded on the North East by the River Hunter from its Source in Lat. 31° 46' to the River Goulburn, and by that River to the Krui River; On the West by the Krui River to its Source at Mount MacArthur or Moan in the Liverpool Range; On the North West by that Range, Tinagroo and Temi to the head of the River Hunter as aforesaid. Remarks: The excess of this County (211 Square miles) and also that of Durham is occasioned by the bend of the great dividing range so far to the northward at the head of the Hunter and of which the Commissioners were not aware when the general limits of these Counties were first Selected.

Brisbane.

18. *County of Bligh.*—Description: Bounded on the North by the Liverpool Range from Mount MacArthur to the head of the Cooluhburragundy River; by the Cooluhburragundy River and Talbragar Rivers to Cobbora; and on the West by a line from Cobbora to the junction of Bell with the Macquarie; On the South West by the Macquarie to the junction of the Cudgegong River; and on the

Bligh.

1834.
5 May.

South East by the Cudgegong River and Wialdrar Creek to the source of the latter in the dividing range at the head of the Goulburn; thence by the Goulburn and Krui Rivers to Mount MacArthur on Liverpool Range. Remarks: So few Selections of Land have been made in that remote County, that the Survey of its Western limits is not yet sufficiently perfect to enable me to ascertain the exact contents.

Wellington.

19. *County of Wellington*.—Description: Bounded on the North East by the River Cudgegong; On the West by that River and the Macquarie to the junction of the River Bell and Wellington Valley; On the West by the River Bell to the Conobolas Mountains, and on the East by the Range thence to Blackman's Swamp, and by Lewis Ponds, the Macquarie, Turon River, Cunningham's Creek, and Cudgegong Creek under Bocoble to the Cudgegong River.

T. L. MITCHELL.

Surveyor General's Office, Sydney, 13th March, 1834.

A true Copy:—E. DEAS THOMSON, Clk., Col.

[Appendix No. 3.]

SURVEYOR-GENERAL MITCHELL TO COLONIAL SECRETARY MACLEAY.

Sir, Surveyor General's Office, 4th April, 1834.

Letter
acknowledged.

I have the honor to acknowledge the receipt of your Letter No. 34/198, in which you inform me of the approval of His Excellency the Governor and Executive Council of the proposed County Divisions, as described and specified in the Map and Report, which I had the honor to submit with my Letter No. 34/98.

Surveys
ordered.

I have also the honor to state that I immediately gave directions for the Survey of those portions of the boundaries of the Counties of Bathurst and Bligh, required by the letter above mentioned, as necessary for the completion of the boundaries of each, and that I hope soon to be able to complete that of Bathurst, although I am doubtful whether the Surveys necessary on the Western limits of Bligh can be accomplished in time for the intended transmission of the Report, Map, and Descriptions to The Right Honorable The Secretary of State.

Proposed
reduction in
area of county
of Gloucester.

Being also requested to report whether I can reduce the Counties of Saint Vincent and Gloucester to something nearer the maximum extent of the King's Instructions, or otherwise to state more fully the reasons which appear to me to render such a reduction impracticable or inexpedient, I have the honor to State that the County of Gloucester may be reduced without any difficulty, its present magnitude being given to it chiefly because the River Manning is the only surveyed line on the North West thereof; this is a well defined line, and it was only by adopting it that I could give the contents, without making an extensive Survey of a remote tract for this one purpose, the labors of the Surveyors not having been hitherto required there either for the measurement of Farms or Townships, and nearly the whole land there having been until lately in the occupation of the Australian Agricultural Company. I have nevertheless been equally desirous to extend the general Survey in that direction, as in other parts of the Colony; but for these reasons, So much having been required of the Surveyors elsewhere, it has not yet been in my power to do so. I am aware, however, that the Gloucester and several other Rivers flow in directions favorable for a boundary *within* the upper part of the Manning, and I have despatched Mr. Surveyor Rolfe with instructions for the Survey of

these and the principal features extending Eastward, in order that the County of Gloucester may be reduced to a superficial extent near unto, or, if possible, within the maximum allowed by His Majesty's Instructions.

1834.
5 May.

With respect to the County of St. Vincent, I beg to state that the Northern portion is so shut in by the Shoalhaven River, whose banks consisting in many places of fifteen hundred feet of perpendicular rock, are so impassable, that it is only accessible by Sea, and that the interior is entirely a barren mountainous Country, while in the Southern portion, where both on the Sea and Land side the land is better, grants have been chiefly Selected, and these have been described as in the County of Saint Vincent. The former Commissioners having limited part of the Southern boundary of this County by the 36th parallel of Latitude, when I had ascertained its extent to be so excessive, I endeavoured to diminish this County as much on that side as the circumstances I have stated permitted; and His Excellency will perceive, on comparing either former descriptions or former Maps with those now in question, that about one hundred Square miles have been cut off from the South between the Dewa and Shoalhaven Rivers. I therefore confidently trust that His Majesty's Government will sanction the adoption of these County Divisions generally, with the amendments the Governor and Council have been pleased to Suggest, and that His Excellency the Governor, who is so well acquainted with the peculiar Character of the whole Country, will be pleased to represent how great a proportion of barren and utterly useless land is included in each of these Divisions.

Inability to reduce area of county of St. Vincent.

I have, &c.,

T. L. MITCHELL, Surveyor General.

RIGHT HON. E. G. STANLEY TO GOVERNOR BOURKE.

(Despatch No. 74, per ship Roslyn Castle.)

Sir,

Downing Street, 11th May, 1834.

11 May.

I have the honor to acknowledge the receipt of your Despatch No. 71 of the 27th Septr. last, in which you report that you had issued the sum of £200 to Mr. Kentish, who had lately been removed from his situation as an Assistant Surveyor, to enable him to defray the expences of his own and of his family's passage to England. It is not my intention to disallow this payment; at the same time, I much regret that you should have decided upon making it, as under the circumstances of that Officer's case, I do not consider that the Government were called upon to defray any part of the expence consequent upon his return to this Country. I have, therefore, to desire that you will confine this indulgence, in future, to those Officers only, whose loss of employment may have resulted from reductions of Establishment; and you will understand that none, even in these cases, will be entitled to such assistance, who may not have proceeded from this Country expressly for the purpose of devoting themselves to the Colonial Service.

Despatch acknowledged.

Disapproval of allowance of passage money to N. L. Kentish.

I am, &c.,

E. G. STANLEY.

1834.
12 May.

RIGHT HON. E. G. STANLEY TO GOVERNOR BOURKE.
(Despatch No. 75, per ship Roslyn Castle.)

Sir, Downing Street, 12th May, 1834.

Approval of
appointment
of G. K. Holden
as police
magistrate.

I have the honor to acknowledge the receipt of your despatch No. 74 of the 29th of Sept., 1833, notifying the appointment of Mr. G. Kenyon Holden to the Police Magistracy of Campbell Town with a salary of £200 per annum, and to convey to you my approval of a measure, the adoption of which, under the circumstances stated in your despatch, appears to have been unavoidable for the due efficiency of the Police Establishment in that District.

Necessity for
voluntary
service as
magistrates.

With reference to your observation as to the disinclination of the Inhabitants to give up their time to the discharge of the Magisterial Duty, and the necessity which would therefore exist for a future augmentation, if Convicts continue to be sent out in large numbers, I think it right to acquaint you that His Majesty's Government will not feel themselves at liberty to sanction the substitution of a Stipendiary for an unpaid Magistracy, excepting under peculiar circumstances, and that therefore Persons of Property, and who may be otherwise qualified for the task, must not be encouraged to expect that they can be relieved altogether from a duty, which is required from them as much for their own personal interests as for those of the Community at large.

I am, &c.,
E. G. STANLEY.

RIGHT HON. E. G. STANLEY TO GOVERNOR BOURKE.
(Despatch No. 76, per ship Roslyn Castle; acknowledged by Governor Bourke, 1st December, 1834.)

13 May.

Sir, Downing Street, 13th May, 1834.

Disallowance
of appointment
of clerk to
archdeacon.

I have received your despatch No. 81 of the 4th of Octr. last, reporting that, in consequence of the dissolution of the Church and School Corporation, the Archdeacon of New South Wales will shortly lose the advantage of an Office with a Messenger and a Clerk attached, and that he has therefore applied to you for the continuance, under his direction, of the Junior Clerk of the late Corporation with a Salary of £100 per annum. The ostensible reason, which has induced you to recommend a compliance with the Archdeacon's request so far as regards the affording him the services of a Clerk, is for the purpose of preparing the annual Alphabetical Indices of Baptisms, Marriages and Burials, agreeably to the Act of Council of 6 Geo. 4th, and of carrying on the Archdeacon's correspondence with the

Government and the Clergy. But I regret that I do not feel myself at liberty, on that ground alone, to acquiesce in the arrangement proposed, not conceiving myself warranted in charging the Public with an expence of this nature in addition to the Salary assigned to the Archdeacon himself.

1834.
13 May.

I am, &c.,
E. G. STANLEY.

RIGHT HON. E. G. STANLEY TO GOVERNOR BOURKE.
(Despatch No. 77, per ship Roslyn Castle.)

Sir,

Downing Street, 14 May, 1834.

14 May.

I have the honor to acknowledge the receipt of your Despatch No. 84 of the 28th of October last, submitting an application, made to you by the Committee of the Sydney Mechanics' Institute, for a Grant without purchase of a part of Land formerly occupied as a Lumber Yard, fronting George's Street, as a site for the Erection of a Building for that Institution.

Refusal of
land grant for
Sydney
Mechanics
Institute.

I am aware that it has not been unusual in such cases, where the objects were of public utility, for Government to grant allotments of Land in furtherance of such undertakings; but, when this practise existed, the Crown Lands were disposed of without purchases, and with more liberality than since the new system of putting them up to Public Sale. Whilst therefore I admit the advantages anticipated by you from the Institution of which it is your anxious desire to promote the Establishment, I must decline to sanction a free Grant of the allotment of Land, which you have recommended to be given up to the Committee, as I prefer that any encouragement, which may be required from the Government and which it may be proper to afford in aid of this Institution, should be given in money, vested in the hands of Trustees; the more especially, as in those instances in which advances from the Treasury may be made, the due appropriation of them towards the objects to which they are to be applied will be better secured than any gift of the nature of that proposed.

I have, &c.,
E. G. STANLEY.

RIGHT HON. E. G. STANLEY TO GOVERNOR BOURKE.
(Despatch No. 78, per ship Roslyn Castle.)

Sir,

Downing Street, 15th May, 1834.

15 May.

I have received your Despatch No. 85 accompanied by a correspondence, which had taken place between the Commissioner for managing the Affairs of the Australian Agricultural

Despatch
acknowledged.

1834.
15 May.

Refusal of
retrospective
payment for
coal to
A.A. company.

Company in New South Wales and the Local Government, on the subject of the price to be paid for the Coals supplied by the Company for the Public Service.

The only point arising out of this correspondence, upon which it is necessary for me to remark, is the claim, set up by Sir Edward Parry in behalf of the Company for the payment of the difference between six shillings per ton, paid before the arrival of Lord Goderich's Despatch of the 20th April, 1832, and 8s. per Ton, the price authorised by that despatch. By the terms of the Instructions above alluded to, I am satisfied that Lord Goderich had no intention of giving to the arrangement that retrospective effect, for which Sir Edward Parry has contended, and you acted, therefore, perfectly right in declining to extend the benefit of the additional allowance to the Coal, which had been already delivered to and paid for by the Colonial Government.

I am, &c.,

E. G. STANLEY.

RIGHT HON. E. G. STANLEY TO GOVERNOR BOURKE.

(A circular despatch per ship Roslyn Castle; acknowledged by Governor Bourke, 2nd December, 1834.)

Sir,

Downing Street, 15 May, 1834.

Transmission
of reports
re South
American
dollars.

I have the honour to transmit to you for your information and guidance copies of a Minute of the Lords Commissioners of His Majesty's Treasury, dated 24 of January last, directing an examination to be made at His Majesty's Mint of the weight and fineness of the several coins of the South American States; also of a Minute of their Lordships, dated 21 of Feby., and of a Report of the King's Assay Master and Probationer assayer, with the Tables annexed thereto, to enable His Majesty's Government to form a correct Estimate of the value of the South American Dollars; and, in compliance with the suggestion of their Lordships, I have to request that you will take such steps as may appear to you to be most advisable for removing any prejudice which may exist against the employment of the Coins in question in New South Wales.

I am, &c.,

E. G. STANLEY.

[Enclosure No. 1.]

COPY TREASURY MINUTE, DATED 24TH JANUARY, 1834.

Treasury
minute *re*
circulation
of dollars in
colonies.

My Lords have under their Consideration the state of the Military Chests in the Colonies, and advert to the difficulty, which has for some time existed in supplying them with Funds on the occasions when it may be expedient to remit Foreign Money, in consequence of the continually increasing scarcity in the Market of the Old Mexican Pillar Dollars, the Coins which are most generally current in the British Colonies.

It appears from various Reports of the Commissariat Officers employed abroad, as well as from other sources of information, that, in some of the Military Stations which are most frequently supplied with Specie from this Country, particularly those of the Mediterranean and West Indies, the description of Coins, which are known in the London Market under the denomination of "New Dollars," and which are understood to be issued from the Mints of the recently formed South American States, either do not circulate at all as Money in the Colonies, or are received at rates considerably below those of the Old Spanish Coins.

The New South American Coins are, however, of the same nominal value, and might be presumed to be of the same weight and fineness as the money coined at the Mint of Mexico before the separation of that Country from Spain; but it is inferred from the difficulty experienced in their free circulation that doubts are entertained upon this point; and, as large quantities of this Money are annually imported into Great Britain, from which the Military Chests might be both conveniently and economically replenished, it appears to My Lords to be desirable that its real intrinsic value should be ascertained, with a view to the adoption of some ulterior steps towards rendering it available for the public Service.

My Lords therefore desire that a Letter be written to the Master of His Majesty's Mint, acquainting him that the present and continually increasing scarcity of the Old Mexican Dollars, which were formerly chiefly used for the supply of the Military Chests abroad, renders it important that their Lordships should possess the means of forming an opinion as to the propriety and practicability of employing the Coins of the South American States, which are described in the London Prices Current as "New Dollars." for the same purpose; and that, with this view, they are desirous in the first place of obtaining accurate information as to the intrinsic value of the Silver Coins issued at different periods by the Mints of each of those States. In furtherance of this object, they request His Lordship will cause a sufficient number of proper specimens of such Coins (including the fractional parts of the Dollars, if any such can be obtained) to be collected and assayed at His Majesty's Mint, and acquaint him that, as it may probably become necessary to give publicity to the trials made at the Mint of the value of the Coins, it is desirable that the report of the proceedings therein should be full and explicit, affording a succinct description of the several pieces subjected to the Trial, the dates of their Coinage, their degrees of fineness, gross weight and contents in pure metal.

My Lords request also that a similar trial may be made of the South American Gold Coins, vizt., Doubloons, and their divisions of halves, quarters, eights and sixteenths, which are actually current in the West India Colonies; but, with a view to a revision of the rates at which they are to be received and issued by the Public Agents, it is necessary to ascertain whether they differ in any respect from the Spanish Gold Coins which were formerly issued.

Much embarrassment to the Public Service having been already occasioned by the difficulty of making suitable remittances to the Colonies, it has become important that immediate steps should be adopted for its removal; My Lords therefore particularly desire that no time may be lost at the Mint in collecting and assaying the proper Coins, and that the required Report may be furnished at the earliest period possible.

1834.
15 May.

Treasury
minute re
circulation
of dollars in
colonies.

Proposal for
assay of South
American
silver coins;

and of
gold coins.

Request for
early report.

[Enclosure No. 2.]

1834.
15 May.Treasury
minute *re*
assay of South
American
silver coins.

COPY TREASURY MINUTE, DATED 21ST FEBRUARY, 1834.

My Lords refer to their Minute of the 24th January last, directing an examination to be made at His Majesty's Mint of the weight and Fineness of the several Coins of the South American States, with the view of enabling their Lordships to form an accurate judgement as to the propriety of employing them, in common with the Old Spanish Monies of similar denominations, for the supply of the Military Chests abroad, and of taking such further steps as might appear to be necessary for facilitating their free circulation in such of the British Colonies or Foreign Military Stations, in which they might be used with advantage to the Community and convenience to the Public Service.

Read Letter from Lord Auckland, dated 14th February, 1834, detailing the results of the Trials made by the King's Assay Master at the Mint, in consequence of the above mentioned directions, of some of the South American Silver Coins, which had been collected for that purpose by the Assistance of the Governor of the Bank of England; and stating that, as soon as a sufficient number of proper specimens of the Gold Coins have been obtained, they will also be tried, and be made the subject of a further report.

The Master of the Mint encloses a joint Report from Mr. Bingley, the Assay Master, and Mr. Henry Bingley, the Probationer Assayer, accompanied by three Statements comprizing a description of the Weight and fineness of the Silver Coins Assayed, an Abstract of their average gross weight and Contents in pure Metal, and a comparison of the whole with the Contents of the Old Spanish Dollar.

It appears from the results of these experiments, which are stated by Lord Auckland to have been conducted at His Majesty's Mint in obedience to their Lordships' especial command with every possible care and accuracy, that the new South American Dollars are (with the exception of one of the three Rio Plata Dollars tried) in every respect as valuable as, or rather better in Weight and fineness than the Dollars coined in Mexico before the separation of that Country from Spain, and which latter are commonly known under the name of pillared Dollars; and that, although the New Coins of different dates are not exactly alike, they are nearly all of somewhat superior value to the old, and the unimportant deviations are attributed by the Officers of the Mint to have arisen from error in the fabrication, and not from design; some of the smaller pieces, the fractional parts of the Dollar, of which but few were collected for trial, have been found indeed to be of comparatively inferior value; but their Lordships are inclined to attach but little importance to this circumstance, as the entire pieces only are commonly used in making remittances for the supply of the Military Chests.

My Lords, having referred to the practice, which has on former occasions been attended to, of supplying The Commissaries employed with the Armies abroad, and other Public Agents, with accurate information regarding the intrinsic values of the Foreign Coins, which in the course of their Official duties must necessarily pass through their hands, are desirous that all due publicity should be given to the proceedings of the Mint in the investigation of the South American Coins; and especially with the view of promoting their circulation, wherever it may be desirable in the Colonies, in common with the Dollars and other Monies of Old Spain, which

have now become comparatively scarce, and altogether insufficient in quantity for the objects to which they have heretofore been applied.

1834.
15 May.

Write to Mr. Lefevre transmitting to him for the information of the Secretary of State for the Colonies, together with Copies of this Minute and of the Minute of the 24th January last before alluded to, Copies of the Report of Messrs. Bingley and its Enclosures, and desiring him to move Mr. Stanley to cause the same to be communicated to the respective Governors of His Majesty's Colonies, with a direction to them to take the necessary steps for having the results of the Mint's examination of the New South American Dollars publicly announced to the Inhabitants of the Colonies; and, in the cases where any difficulty has been experienced in the free circulation of that description of Coin, to accompany such announcements with a Proclamation declaring that the several kinds of South American Dollars, described in the Report, will in future be received and issued on the part of the Government Agents and Authorities at the same rate as the Old Pillar Dollars.

Instructions *re* circulation of South American silver coins in colonies.

[Enclosure No. 3.]

THE following Table has been made at the Mint by desire of the Lords Commissioners of His Majesty's Treasury transmitted through the Right Honorable Lord Auckland, Master and Worker.

Report on assay of South American dollars.

THE object of the Table is to enable Government to form a correct estimate of the value of South American Dollars as a supply for the Military Chests of the Colonies, which have hitherto been supplied by the Old Spanish Dollar. In pursuance of this object, the Coins have been weighed and assayed individually, which, although it lengthens the examination, will not only yield a correct average value of the Coins, but enable also a correct opinion to be formed of the skill and accuracy with which the respective Coins of the several States have been fabricated.

The Lords Commissioners of His Majesty's Treasury having expressed great desire for the *earliest information* upon the subject, the Table of Silver Coins has not been made so comprehensive as a greater length of time would have allowed by enabling a larger Collection of Coins to be procured and examined; still, as it includes Coins from every State in South America,* it is hoped it may answer the purpose immediately required.

A Table of Gold Doubloons will be formed as soon as a sufficient number can be collected for the purpose.

No. 1.

Silver.	No.	Weight.		Fineness.		Average Fineness.	
		Dwts.	Grs.	Oz.	Dwts.	Oz.	Dwts.
	1	17	21	W.	7		
	2	17	12	W.	7½		
	3	17	8	W.	6½		
	4	17	9	W.	5½		
Mexican Dollars, 1831.....	5	17	12½	W.	6	W.	6⅞
	6	17	8½	W.	7		
	7	17	9	W.	6½		
	8	17	9½	W.	8		
	9	17	4	W.	6½		
	10	17	11½	W.	6½		

* The Brazilian Silver Coins are chiefly pieces from other States restamped.

The following table has been made at Mint. No. 1—*continued.*

1834.
15 May.

Report on assay
of South
American
dollars.

Silver.	No.	Weight.		Fineness.		Average Fineness.	
		Dwt.	Grs.	Oz.	Dwts.	Oz.	Dwts.
Mexican Dollars, 1832.....	1	16	18½	W.	77½	W.	7½
	2	18	7	W.	6		
	3	17	9	W.	7		
	4	17	11	W.	9		
	5	15	19	W.	8		
	6	11	7	W.	8½		
	7	17	10	W.	5		
	8	17	6½	W.	8		
	9	16	14	W.	8		
	10	17	20	W.	8		
Mexican Dollars, 1833.....	1	17	2	W.	6½	W.	6r ⁶ ₀
	2	17	20	W.	7½		
	3	17	12	W.	7½		
	4	17	13	W.	7		
	5	18	6	W.	6		
	6	17	6½	W.	6½		
	7	17	4½	W.	6½		
	8	16	19	W.	7		
	9	17	8	W.	4½		
	10	17	18½	W.	7		
Quarter Mexican Dollars	1	3	19½	W.	6½	W.	6r ² ₀
	2	4	12½	W.	7		
	3	4	7½	W.	5½		
	4	4	7½	W.	6		
	5	4	7½	W.	6		
	6	4	9½	W.	6½		
	7	4	9½	W.	6		
	8	4	7	W.	6		
	9	4	5½	W.	6		
	10	4	7½	W.	6½		
Quarter Central American Dollars.	1	4	3½	W.	4½	W.	3r ⁰ ₀
	2	3	19½	W.	5		
	3	3	20	W.	4		
	4	4	8½	W.	1½		
	5	3	11	W.	6½		
	6	4	1½	W.	3½		
	7	3	23½	W.	2½		
	8.	3	2	W.	3½		
	9	4	11	W.	5		
	10	4	9	W.	4		
Eighth Central American Dollars.	1	2	4½	W.	4½	W.	7r ⁰ ₀
	2	1	23½	W.	4½		
	3	2	2½	W.	7½		
	4	2	2½	W.	6		
	5	1	22½	W.	4		
	6	1	21½	W.	5		
	7	1	20	W.	4		
	8	1	16½	W.	5		
	9	2	3½	W.	7		
	10	2	10	W.	4		
Quarter Boliviana Dollars, 1830.	1	4	8½	W.	3	W.	3
	2	4	9	W.	2		
Half Boliviana Dollars	1	8	17½	W.	3	W.	3 ½
	2	8	17	W.	3		
	3	8	15	W.	3		
	4	8	14½	W.	3		
	5	8	17	W.	2		
	6	8	18	W.	3		
	7	8	17	W.	3		
	8	8	16½	W.	3		
	9	8	17	W.	3		
	10	8	18½	W.	3		

THE following table has been made at Mint. No. 1—*continued.*

1834.
15 May.

Report on assay
of South
American
dollars.

Silver.	No.	Weight.		Fineness.		Average Fineness.	
		Dwt.	Grs.	Oz.	Dwts.	Oz.	Dwts.
Boliviana Dollars, 1829	1	17	13	W.	5 $\frac{1}{2}$	W.	5 $\frac{6}{10}$
	2	17	3 $\frac{1}{2}$	W.	6 $\frac{1}{2}$		
	3	17	7	W.	5		
	4	17	9	W.	5 $\frac{1}{2}$		
	5	17	8	W.	5 $\frac{1}{2}$		
	6	17	5 $\frac{1}{2}$	W.	6		
	7	17	9 $\frac{1}{2}$	W.	6		
	8	17	9 $\frac{1}{2}$	W.	5		
	9	17	9	W.	5 $\frac{1}{2}$		
	10	17	9	W.	5 $\frac{1}{2}$		
Boliviana Dollars, 1832	1	17	8	W.	5 $\frac{1}{2}$	W.	5 $\frac{1}{2}$
	2	17	8 $\frac{1}{2}$	W.	5 $\frac{1}{2}$		
	3	17	6	W.	6		
	4	17	6	W.	5 $\frac{1}{2}$		
	5	17	9	W.	5 $\frac{1}{2}$		
	6	17	8	W.	5 $\frac{1}{2}$		
	7	17	9 $\frac{1}{2}$	W.	5 $\frac{1}{2}$		
	8	17	7	W.	5		
	9	17	8 $\frac{1}{2}$	W.	5 $\frac{1}{2}$		
	10	17	9	W.	5 $\frac{1}{2}$		
Peru Dollars, 1832	1	17	9 $\frac{3}{4}$	W.	5 $\frac{1}{2}$	W.	5 $\frac{6}{10}$
	2	16	21	W.	6 $\frac{1}{2}$		
	3	17	3 $\frac{1}{2}$	W.	6		
	4	17	2	W.	5 $\frac{1}{2}$		
	5	16	22	W.	6		
	6	17	14	W.	5		
	7	18	1	W.	5 $\frac{1}{2}$		
	8	16	13	W.	6		
	9	16	20	W.	7		
	10	17	6	W.	5 $\frac{1}{2}$		
Peru Dollars, 1833	1	17	5	W.	5	W.	5
	2	17	7	W.	5		
	3	17	13	W.	5		
	4	17	2	W.	5		
	5	17	18	W.	5		
	6	17	15 $\frac{3}{4}$	W.	5		
	7	17	4	W.	5 $\frac{1}{2}$		
	8	17	9	W.	4		
	9	17	11	W.	5		
	10	16	14 $\frac{1}{4}$	W.	5 $\frac{1}{2}$		
Chili Dollars, 1833	1	17	5 $\frac{1}{2}$	W.	5 $\frac{1}{2}$	W.	5 $\frac{6}{10}$
	2	17	13	W.	6		
	3	17	22	W.	6		
	4	17	12	W.	5 $\frac{1}{2}$		
	5	17	21	W.	5 $\frac{1}{2}$		
	6	17	10	W.	5 $\frac{1}{2}$		
	7	17	5	W.	6		
	8	17	12	W.	5 $\frac{1}{2}$		
	9	17	21	W.	5		
	10	17	15	W.	5 $\frac{1}{2}$		
Rio Plata Dollars	1	17	2	W.	4 $\frac{1}{2}$	W.	6 $\frac{3}{10}$
	2	17	1 $\frac{1}{2}$	W.	9 $\frac{1}{2}$		
	3	17	2	W.	6		
Quarter Colombia Cundina- marca, 1821.	1	4	8	W.	2 19		
Eighth Colombia Cundina- marca, 1821.	1	2	7 $\frac{1}{2}$	W.	3 2		
Eight Colombia New Grenada Cundinamarca, 1813.	1	1	16 $\frac{1}{2}$	W.	4 6		

No. 2.

A STATEMENT of the average weight and Contents in pure Metal of the several Dollars according to their Dates, issued by the States of South America.

1834.
15 May.
Statement of
average weight
and contents
of dollars.

Species of Dollars.	Average Weight.		Average Contents in pure Metal.	
	dwts.	grs.	dwts.	grs.
Mexican Dollars, 1831	17	10 $\frac{4}{16}$	15	15 $\frac{4}{16}$
Mexican Dollars, 1832	17	4 $\frac{9}{16}$	15	9
Mexican Dollars, 1833	17	10 $\frac{9}{16}$	15	16
Quarter Mexican Dollars	4	6 $\frac{9}{16}$	3	20 $\frac{5}{16}$
Quarter Central American Dollars	3	23	3	14 $\frac{9}{16}$
Eighth Central American Dollars	2	0 $\frac{7}{16}$	1	19 $\frac{7}{16}$
Quarter Boliviana Dollars, 1830	4	8 $\frac{7}{16}$	2	22 $\frac{7}{16}$
Half Boliviana Dollars	8	16 $\frac{6}{16}$	5	20 $\frac{6}{16}$
Boliviana Dollars, 1829	17	8 $\frac{3}{16}$	15	15 $\frac{3}{16}$
Boliviana Dollars, 1832	17	7 $\frac{7}{16}$	15	15 $\frac{7}{16}$
Peru Dollars, 1832	17	4	15	11 $\frac{1}{16}$
Peru Dollars, 1833	17	7 $\frac{5}{16}$	15	15 $\frac{5}{16}$
Chili Dollars, 1833	17	13 $\frac{6}{16}$	15	20 $\frac{6}{16}$
Rio Plata Dollars	17	1 $\frac{7}{16}$	15	7 $\frac{7}{16}$
Quarter Columbia Cundinamarca, 1821	4	8	2	22 $\frac{8}{16}$
Eighth Columbia Cundinamarca, 1821	2	7 $\frac{7}{16}$	1	13
Eighth Columbia New Grenada Cundinamarca, 1813 ..	1	16 $\frac{6}{16}$	0	22 $\frac{6}{16}$

No. 3.

COMPARISON with the Old Spanish Dollar.

Comparison
with old
Spanish dollar.

Species of Dollar.	Assay Report.	Gross Weight.		Pure Metal.	
		oz.	dwts	dwts.	grs.
The Old Spanish Dollar	Wt.	8	..	17	8
Mexican Dollar, 1831	W.	6 $\frac{7}{16}$	..	17	10 $\frac{4}{16}$
do. do. 1832	W.	7 $\frac{3}{2}$	..	17	4 $\frac{9}{16}$
do. do. 1833	W.	6 $\frac{9}{16}$	..	17	10 $\frac{9}{16}$
Boliviana Dollar, 1829	W.	5 $\frac{9}{16}$	..	17	8 $\frac{7}{16}$
do. do. 1832	W.	5 $\frac{1}{2}$	..	17	7 $\frac{3}{16}$
Peru Dollar, 1832	W.	5 $\frac{1}{16}$	..	17	4
do. do. 1833	W.	5	..	17	7 $\frac{5}{16}$
Chili Dollar, 1833	W.	5 $\frac{6}{16}$	..	17	13 $\frac{6}{16}$
Rio Plata Dollar	W.	6 $\frac{3}{2}$	..	17	1 $\frac{7}{16}$
The Old Spanish $\frac{1}{2}$ Dollar ...	Wt.	8	..	8	16
Boliviana $\frac{1}{2}$ Dollar	W. 3	0 $\frac{1}{2}$	..	8	16 $\frac{8}{16}$
The Old Spanish $\frac{1}{4}$ Dollar ...	Wt.	8	..	4	8
Mexican $\frac{1}{4}$ Dollar	W.	6 $\frac{7}{16}$	..	4	6 $\frac{9}{16}$
Central American Do.	W.	3 $\frac{7}{16}$	..	3	23
Bolivian do.	W. 3	0	..	4	8 $\frac{7}{16}$
Columbia Cundinamarca, 1821	W. 2	19	..	4	8
The Old Spanish $\frac{1}{8}$ Dollar ...	Wt.	8	..	2	4
Central American $\frac{1}{8}$ Dollar ..	W.	7 $\frac{1}{16}$	..	2	0 $\frac{5}{16}$
Columbia Cundinamarca, 1821	W. 3	2	..	2	7 $\frac{7}{16}$
Columbia New Grenada Cundinamarca do., 1821	W. 4	6	..	1	16 $\frac{6}{16}$

RIGHT HON. E. G. STANLEY TO GOVERNOR BOURKE.

(Despatch No. 79, per ship Roslyn Castle.)

Sir,

Downing Street, 16th May, 1834.

16 May.
Despatch
acknowledged.

I have received your despatch dated 27 of Novr. last, No. 90, enclosing a Memorial from Mr. Samuel Wright, late Captain in the 3d Regt. of Foot, praying to be allowed to hold

certain Lands, assigned to him in the year 1827, on the same Terms as were granted to Military and Naval officers at the time that he retired from the Service for the purpose of Settling in New South Wales.

1834.
16 May.

Consistently with the principle laid down by Sir George Murray, in his despatch to General Darling of the 30th of Novr., 1829, vizt., that, "unless the advantage held out by the Regulation to Military Officers was the consideration which induced them to retire from the service, they were not entitled to benefit by it," I regret to state that it is not in my power to comply with the recommendation, which you have addressed to me in support of Mr. Wright's application, since it is evident that the remission of Quit Rent, which was held out to Military Officers, had formed no part of that Gentleman's inducement to become a Settler in New South Wales, the Regulations upon that subject being not even promulgated in the Colony, when his decision to dispose of his Commission and to reside there was taken.

Refusal of application by S. Wright re land grant.

I am, &c.,
E. G. STANLEY.

GOVERNOR BOURKE TO RIGHT HON. E. G. STANLEY.

(Despatch No. 49, per ship Persian; acknowledged by earl of Aberdeen, 23rd December, 1834.)

Sir, Government House, 16 May, 1834.

At the request of Mr. John Busby, engaged formerly in this Colony with the designation of Mineral Surveyor, but employed for some time back in superintending the Construction of a Tunnel to bring water into Sydney, I have the honor to transmit a Copy of a letter addressed by that gentleman to the Colonial Secretary, remonstrating against an arrangement which I found myself compelled to make on account of the unsatisfactory progress of the Tunnel under his charge. The arrangement, to which he objects, directs that the Salary hitherto allowed to Mr. Busby should be applied towards paying for more effective superintendence.

Transmission of letter from J. Busby.

Protest against payment of salary.

The slow progress of this work has frequently called forth the animadversions of the Public of New South Wales, and appears to have engaged the attention of Lord Goderich, who, in his Despatch of 12th Decr., 1832, No. 145, required a Report on the subject. In obedience to His Lordship's Command, I appointed in the last year a Committee of the Legislative Council to enquire into the state of the work and had the honor, in my Despatch,

Delay in completion of tunnel for water supply of Sydney.

1834.
16 May.

No. 92 of 29th Novr., 1833, to transmit to you a Report* of the Committee, in which it is attempted to point out the causes of the tardy procedure in forming the Tunnel.

Delay due to
want of
supervision.

Since transmitting that Report, I have not found the work advance more rapidly; but there has been on the contrary a falling off, which, if not corrected, would add two years at the least to the period calculated for its completion. I could not but attribute this delay in great measure to the want of that active and vigilant superintendence, which is so necessary in an undertaking of this nature, carried on by men disposed to evade in every possible way the labor they are called on to perform, and who must be followed even underground in such operations as these now under consideration. The management of such laborers is perhaps a duty incompatible with Mr. Busby's advanced age and infirmities; and, allowing him all the professional skill which he would seek the credit of possessing, it appeared to me absolutely necessary to appoint some person with sufficient activity to direct and enforce the execution of the work, which Mr. Busby should design. The necessity of this appointment he had himself acknowledged by soliciting more than once the employment of one of his sons in this particular duty at a Salary of £100 a year. This application the Secretary of State refused to comply with on the ground that £500 a year was a sufficient remuneration for the whole duty of superintending the Tunnel, and to enable Mr. Busby to pay a Deputy for that part of it which he was unable or unwilling to fulfil in his own person. After having warned Mr. Busby of the increased necessity for making such an appointment, and giving him sufficient opportunity for making it of his own accord, I at length intimated to him my intention of appointing a competent overseer at a Salary of £200 a year to be deducted from the £500 hitherto paid to himself. For this office, I selected his own son, the person formerly proposed by himself for the employment, but at the same time notified to Mr. Busby, Senior, that the appointment was to be considered as entirely distinct from his own, and that his son would be required to discharge *bona fide* all the duty of overseer, and would become liable to immediate removal and that another would be appointed in his place, whenever the Government should have reason to believe that the public Service required a change. If Mr. Busby declined to accede to this arrangement, I notified to him my intention of reducing his office altogether, and placing the Tunnel under the charge of the Surveyor General. Mr. Busby has in consequence submitted to the appointment of his son as overseer with a Salary of £200 a

Necessity for
appointment
of overseer.

Appointment
of W. Busby.

year, but has declined receiving the salary of £300 a year allotted to him as Superintendent in the hope that His Majesty's Govt. will, upon the receipt of the letter now transmitted, direct that he be continued at £500 a year and his son be salaried also. He continues however to discharge a superintendent's duty.

1834.
16 May.

Claim of
J. Busby to
full salary.

Mr. Busby complains of this proceeding as operating unjustly towards him and being in contravention of claims which he asserts he has on government through the arrangements made on his first appointment. I have no means of judging of these claims otherwise than by the Expressions of Lord Goderich in the Despatches of 12 Decr., 1832, before alluded to, in which His Lordship states Mr. Busby's services to have been originally engaged for a period only of three years; that, at the expiration of that time, a fresh engagement was entered into with him with reference to the particular works then in progress. That His Lordship considered this engagement as determinable at the pleasure of Government is evident from his going on to observe that the same necessity for his services would not probably continue on account of the system of contract, then recently introduced, and requesting to know whether his appointment could be reduced.

Agreements re
employment of
J. Busby.

With regard to the necessity existing at the present juncture for Mr. Busby's Employment, it results chiefly from the absence from the Colony of any well qualified Civil Engineer. Mr. Busby has not been regularly bred to this profession, and, though he may possess a knowledge of some branches of this extensive art, he is not a person in whose skill I feel inclined to place an implicit reliance. Many serious questions are frequently agitated on the subject of the Tunnel, with regard both to the expence of its due completion and to the measure of its utility when completed. Upon these matters, it would be very satisfactory to have the power of consulting a person of acknowledged information, and I mean to propose to the Legislative Council, at the approaching Session, to appropriate a sum sufficient to engage a competent Civil Engineer to superintend the many useful works, which it would be desirable to undertake in the Colony under scientific superintendence. With respect to the Tunnel, I will only add that I have continued Mr. Busby as Superintendent, not being able to find any more qualified person in the Colony, and that I consider this superintendence as very amply remunerated at the rate of £300 a year.

Capability
of J. Busby.

Proposed
appointment of
civil engineer.

Employment of
J. Busby as
superintendent.

I would take this opportunity of enquiring whether, in the event of my finding it necessary to reduce Mr. Busby's employment altogether, it is the wish of His Majesty's Government

1834.
16 May.
Query re
gratuity for
J. Busby.

that I should allow him the gratuity of two years' salary (£1,000), to which, having completed ten years' service, he will have a claim under the instructions, contained in the Despatch of Lord Goderich of the 29th Sept., 1831, No. 27.

I have, &c.,
RICHD. BOURKE.

[Enclosure.]

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

RIGHT HON. E. G. STANLEY TO GOVERNOR BOURKE.
(Despatch No. 80, per ship Roslyn Castle.)

17 May.
Refusal of
land grant for
I. S. Nind.

Sir, Downing Street, 17th May, 1834.

I have received your despatch No. 91 of the 28th of Novr. last, accompanied by a Memorial from Mr. I. S. Nind, praying for a grant of Land upon the old Terms, under the circumstances therein stated; and I regret to acquaint you in answer that Mr. Nind has forfeited all claim to a grant, upon more favorable conditions than those upon which Land is now to be obtained, by having failed to apply for a location and make a selection of it prior to the adoption of the new system.

I am, &c.,
E. G. STANLEY.

RIGHT HON. E. G. STANLEY TO GOVERNOR BOURKE.
(Despatch No. 81, per ship Roslyn Castle.)

18 May.
Refusal of
application by
J. Raymond.

Sir, Downing Street, 18th May, 1834.

I have received your despatch No. 97 of the 5th of Decr. last, enclosing an application from Mr. Raymond, either for an increase to his salary as Post Master, or a more lucrative appointment in New South Wales or in some other Colony. In considering the claim which Mr. Raymond has preferred to a better appointment than that which he now holds, I have not failed to refer to the circumstances under which Mr. Raymond first proceeded to the Colony; but, whatever expectations may have been held out to him by the Irish Government on account of his losses in that Country, I cannot discover that any promise was made to him by this Department at the period adverted to, which has not been already fulfilled by the Colonial Appointment which he has since received, and to the salary of which I regret that I do not feel myself at liberty to sanction any augmentation.

I am, &c.,
E. G. STANLEY.

UNDER SECRETARY LEFEVRE TO GOVERNOR BOURKE.
(Despatch per ship Roslyn Castle.)

1834.
19 May.

Sir, Downing Street, 19th May, 1834.

A Letter has been received at this Department from Mr. Campbell Riddell, the Colonial Treasurer at New South Wales, the object of which is to obtain a dispensation, in his case, from the Rule, laid down in the Secretary of State's Circular despatch of the 31 of August, 1831, respecting the salaries of officers absent on leave.

Refusal of
application by
C. D. Riddell.

Mr. Stanley requests that you will inform Mr. Campbell Riddell that he does not feel himself at liberty to relieve him from the effect of the Regulation, which has been adopted in conformity with the Circular despatch, to which I have before adverted; and, in making this communication to Mr. Riddell, Mr. Stanley further directs that you will point out to him the irregularity of his transmitting to this Department any application of the nature of that which his letter contains, without transmitting it through the Governor according to the established Regulations.

I am, &c.,

JOHN LEFEVRE.

RIGHT HON. E. G. STANLEY TO GOVERNOR BOURKE.

(Despatch No. 83, per ship Roslyn Castle; acknowledged by Governor Bourke, 18th September, 1834, and 13th February, 1835.)

Sir, Downing Street, 23rd May, 1834.

23 May.

I have had the honour to receive your Despatch, No. 101 of the 6th Decr. last, and the Statement, which you have sent of the Funds in the Colonial Treasury arising from Sales and rents of Crown Lands up to Novr. last, is perfectly satisfactory, as is also the calculation which you have made of the probable sum which will be raised during the present year from the same source.

Despatch
acknowledged.

The account which you have given of the Female Emigrants, who reached the Colony in the "Bussorah Merchant," and of the manner in which they were afterwards disposed of, is highly gratifying; and I am happy to find that they have given such general satisfaction to the Colonists. It is not to be expected that, out of so large a number of Women collected together from all parts of the United Kingdom, there should not be a few who would go astray, especially when, upon landing, they are exposed to such extraordinary temptations, arising from the disproportion which still subsists between the Sexes; and which must amount, until this is rectified, to a very high premium on an irregular unmarried life. Upon the whole, however, I have

Approval
of report re
immigrants per
ship *Bussorah
Merchant*.

1834.
23 May.

perused your Report with much pleasure; and I consider the general conduct of those Emigrants to have reflected much credit on the Committee by whom they were selected and despatched; and by whose future exertions I trust that the temptations, to which in your Despatch you have so forcibly alluded, may be materially diminished in the case of those Females who may hereafter be sent to the Colony.

Problem of
recovery of
advances
from female
immigrants.

There is one point, however, in your Despatch, which I regret to say has not afforded me such satisfaction, and on which I have to offer a few observations, vizt., your statement that, up to the date of your Despatch, no re-payments had been made by any Parties, in whose favour advances of £20 had been issued; and that you believe any attempt to obtain such repayments by any means short of compulsion would be altogether hopeless. It also appears that, altho' you have obtained valid obligations of this Debt from the majority of the Parties who have availed themselves of this Loan, you have nevertheless abstained from having recourse to compulsory measures, for reasons which you have stated. It is very true, as the Collector of Internal Revenue justly observes, that "if the idle and drunken are allowed to evade repayment, without suffering any bad consequences, while the industrious are compelled to pay, because they possess some little means, it will be in fact holding out a premium to Idleness and Drunkenness"; but I see no reason why the former class should be allowed to evade such repayment, as it was most clearly explained to all Parties, who availed themselves of the assistance of the Government to reach the Colony, that repayment of their Loans would be rigidly insisted on, whenever they might be in a condition conveniently to make such repayment. At that time, it was calculated that two years would be a sufficient length of time to enable them to do so; and, altho' it was judged inexpedient, in Lord Goderich's Instructions to you upon the subject in question, to fix any definite time in which Emigrants should be required to discharge their Debt, it was nevertheless supposed that you would have adopted every precaution for carrying that object safely into effect.

I therefore have now to request that you will immediately proceed in demanding payment in the regular way from those, who have given Bonds for repayment, without any exception, beginning with the individuals who arrived first in the Colony; and that you will take an early opportunity of reporting to me the success you may meet with in carrying these Instructions into effect.

I have, &c.,

E. G. STANLEY.

RIGHT HON. E. G. STANLEY TO GOVERNOR BOURKE.

(Despatch No. 84, per ship Henry Tanner; acknowledged by Sir Richard Bourke, 26th June, 1835.)

1834.
25 May.

Sir, Downing Street, 25 May, 1834.

I have to acknowledge the receipt of your despatch No. 59 of the 3d August last, transmitting a copy of the Act of the Governor and Council of New South Wales, appropriating the Revenues of that Colony for the year 1834, accompanied by such observations as you have considered it necessary to offer in explanation of certain items of Expenditure therein provided for.

Appropriation
act
acknowledged.

The first subject, to which you call my attention, is one connected with the assignment of Convicts, a duty which appears to have been entrusted to a Board consisting of two Officers of the Government, to whom an extra-allowance was granted in remuneration for the trouble which it imposed upon them. On referring to the opinion expressed by the Commissioners of Enquiry* in favor of the abolition of this Board, I find that their recommendation proceeded on the ground that the interposition of a Board in regard to the assignment of Convicts to Settlers was unnecessary, and that the responsibility of assignment ought to rest with the Colonial Government, the performance of the subordinate details being entrusted to the Superintendent of Convicts. I am aware of the opinion, which has been expressed that it would be preferable to divide the responsibility of deciding upon the various applications for Convict Servants between two or more Officers; and, so long as that desirable object could be accomplished without additional expence to the Public, I should have been glad to sanction such an arrangement. But, if you should continue of opinion that the course, pointed out to you in Lord Goderich's despatch of the 29th Septr., 1831, cannot be pursued without peculiar hardship or dissatisfaction to those Officers upon whom the task of assigning Convicts might devolve, I may very possibly forego, in this instance, the saving which the Commissioners have recommended. But in that case, I should much prefer a single responsible officer with no other employment to a Board of Officers otherwise employed, but receiving extra pay for this duty. And you will not fail to report to me, by the earliest opportunity after the receipt of this Despatch, the mode which may in your opinion be the best for giving effect to this measure, understanding that this duty must in the mean time be performed without any extra expence to the public in the manner provided for by Lord Goderich in his Despatch before mentioned.

Criticism
of board for
assignment
of convicts.

With this explanation of my sentiments in regard to the assignment of Convicts, it is almost needless to add that

* Note 37.

1834.
25 May.

Refusal of
salary for
C. D. Riddell.

Increase in
contingent
expence of
mineral
surveyor.

Approval of
subsidy for
church at
Bathurst ;

of grant for
erection of
King's school ;

and of
compensation
for H. and
W. Dumaresq.

Mr. Campbell Riddell's application (enclosed in your despatch of the 21st of August last, No. 66) for the Salary formerly attached to each Member of the Board is inadmissible for any period, subsequent to that at which you deemed it proper, in consequence of Lord Goderich's Instructions, to discontinue that allowance.

I shall defer expressing any opinion in respect to the increase, which, on the recommendation of a Committee, you have authorised to the contingent expence of the Mineral Surveyor, until the Report to which you advert, and which you state that it is your intention to send home, shall have reached this Department.

I approve of the sum amounting to £375, which you have directed to be paid out of the Colonial Funds in aid of a similar sum, subscribed by the Inhabitants of Bathurst towards the erection of a Church at that place. The Principle upon which the assistance has been afforded by you has been already recognised by His Majesty's Government, who cannot but feel gratified at the proof thus manifested by the Settlers in that District of their anxiety not to lose the advantages of such religious Instruction as may be within their reach in consequence of any present deficiency of suitable Places of Public Worship ; and the example, which has been thus set by the Inhabitants of Bathurst, will, I trust, be speedily followed by those in other Districts where the same wants may exist.

The further sums, which you have appropriated, amounting together to £1,100, for the erection of a School House at Paramatta, call for no particular observation, this expence having been already authorised by Instructions from His Majesty's Government ; but, as you do not state, in your despatch, that this sum, in addition to £1,200 provided for this service during the year 1833, will be sufficient to cover the whole expence of the proposed Building, I cannot refrain from expressing my hope that, if any further advances are likely to be required, the utmost attention to economy will be paid in the completion of this work.

The claim of Messrs. Henry and William Dumaresq having undergone a second consideration in the Council, to whom the Parties addressed a Memorial, a copy of which has been incidentally brought under my notice, I deem it sufficient in the absence of the Proceedings before the Council in this case to inform you that, as this claim can only, as I conceive, be properly understood in the Colony, I am prepared to sanction the payment of the sum of £500 to those Gentlemen in lieu of that previously awarded to them, should you see no reason to dissent from the recommendation of the Council in this particular.

In regard to the two items of Expenditure mentioned in your despatch, against which one of the Members of Council has a second time protested, I have only to refer you to my despatch of the 30th of April, 1833, in which I communicated to you my sentiments on those two subjects; I see no reason now for altering the opinion, which I have expressed that the Salary of Mr. Busby, as British Resident at New Zealand, was justly chargeable to the Colony of New South Wales, under all the circumstances which gave rise to that appointment; And I trust that the Instructions, which were at the same time conveyed to you for defraying out of the Territorial Revenues of the Crown the sum of £750 per annum received by Mr. McLeay as a Pension for former services, will be a convincing proof to the Colonists of the anxious desire, which exists on the part of His Majesty's Government to relieve the Colonial Funds from any burthen which can with propriety be withdrawn from them.

1834.
25 May.

Salary for
James Busby
and pension for
A. Macleay.

Adverting to the Resident at New Zealand, it may however be deserving of consideration whether, in consequence of the benefits resulting to the Trade of Van Diemen's Land in common with that of New South Wales, the Funds of the former Colony may not be fairly chargeable with a proportion (say one third) of the Amount; But, before any fresh proposition be submitted to His Majesty's Government on this subject, you will, of course, communicate with Colonel Arthur for the purpose of eliciting that Officer's opinion in reference to such a measure.

Payment
proposed by
Tasmania
towards salary
of James Busby.

I regret that I do not feel at liberty to authorize the augmentation which has been recommended by the Council in the case of the Pension assigned to Mrs. King; This Lady has been in the receipt of this Pension according to its present amount for many years; and, when to this indulgence are added the other advantages in Land enjoyed by several Members of her family, I feel satisfied that neither herself nor those friends, who have evinced so flattering an interest in her behalf, will complain that her application has not met with a more favorable result.

Refusal of
increased
pension for
A. J. King.

It only remains for me, in conclusion, to signify to you His Majesty's Gracious allowance of the appropriation Act for 1834, subject to any objections which may have been made in the appropriation Act of the preceding year, or in the course of the intermediate correspondence, and of which objections you were not aware at the time of the passing of the Act in question.

Allowance of
appropriation
act.

I am, &c.,

E. G. STANLEY.

1834.
26 May.

UNDER SECRETARY LEFEVRE TO GOVERNOR BOURKE.
(A private despatch per ship Henry Tanner; acknowledged by
Governor Bourke, 6th December, 1834.)

Dear Sir, Downing Street, 26th May, 1834.

Papers to be
submitted to
J. Kinchela.

Mr. Secretary Stanley has directed me to request that you will take an early opportunity of seeing Mr. Kinchela on the subject of the enclosed representation, to which, being the second of the same kind* which has been addressed to this Department, he deems it right that Mr. Kinchela's attention should be called. Mr. Stanley will be glad to find, supposing the claim to be a just one, that Mr. Kinchela has made arrangements for liquidating the amount.

I remain, &c.,

JOHN LEFEVRE.

[Enclosure.]

MR. J. DILLON TO RIGHT HON. E. G. STANLEY.

No. 10 Malpas Street.

Request for
assistance in
collecting
debt from
J. Kinchela.

IN the month of Novr., 1832, I sent a Memorial to Lord Viscount Goderich, then H.M. Secretary of State for the Colonies, entreating his Lordship's interference to cause Mr. Kinchela, Attorney Genl. at New South Wales, to pay me the amount of his Bond, which with Interest amounted then to £183 19s. 8d., now £192 4s. 8d. His Lordship in reply suggested the propriety of my writing again to Mr. Kinchela and kindly promised to have it forwarded to him thro' the Governor of that Colony. I accordingly adopted his Lordship's suggestion and wrote Mr. Kinchela a letter (Copy of which I beg leave to enclose) which will obviate the necessity of troubling you here with a detail of circumstances connected with the subject.

I most respectfully beg to acquaint you that myself and Family are reduced to the greatest distress, unable from pecuniary embarrassment to carry on my business of Silk Manufacturing and dependant in a great measure for support on the casual assistance of friends, not well able to afford it under painful circumstance; and, it being now 18 months since I wrote to Mr. Kinchela not having taken any notice of my letter, I most earnestly entreat that you may be pleased to use your influence in causing him to pay me what is now so long due, and for which I forbore pressing him at a time when my doing so might have militated against his present employment; your benevolent interposition will be the means of saving an industrious and unfortunate family from destruction.

I have, &c.,

JOHN DILLON.

[Sub-enclosure.]

MR. J. DILLON TO MR. J. KINCHELA.

Sir,

November, 1832.

Application
to J. Kinchela
for payment.

On the 2d September, 1831, I addressed a letter to you earnestly entreating that you would pay me the amount of your two Bonds in my hands (amounting now with interest to £183 19s. 8d.) according to your solemn promise made to me in 1822, when you were, as you stated to me, in expectation of getting an advantageous Situation under government from the fruits of which you expressly promised I should be paid, and on the faith of

such promise I ceased the legal proceedings for its recovery which I had commenced. Not having received any communication from you for so many years, nor any notice taken of the letter above alluded to, and being in very great distress, I was reluctantly obliged to apply to my Lord Goderich on this subject. At his Lordship's suggestion (who has kindly promised to forward this letter to you), I beg again to entreat that you will on receipt of this letter please to have my demand paid; And, as you have been for so long a time lucratively employed, I trust I shall not in this instance entreat in vain.

1834.
26 May.

Application
to J. Kinchela
for payment.

RIGHT HON. E. G. STANLEY TO GOVERNOR BOURKE.
(Despatch No. 85, per ship Henry Tanner.)

Sir,

Downing Street, 28th May, 1834.

28 May.

I have to acknowledge the receipt of your Despatch No. 73 of the 28 Sept. last, enclosing a copy of the proceedings of the Legislative Council on a claim brought before it on the part of Messrs. Henry and William Dumaresq for compensation on the loss of certain tolls on a Bridge, purchased by them of the original Proprietor, over Willis's Creek at Maitland.

Despatch
acknowledged.

In my Despatch of the 25th Inst., I intimated to you my readiness to sanction such amount of compensation as the Council might deem the parties fairly entitled to receive in consideration of their loss; and I have now the honor of acquainting you that I approve of the payment to them of the sum which has been finally awarded in their favor; at the same time, I am by no means satisfied, from the information which you have transmitted, that the property which has given rise to this claim was of the value at which it was estimated by the parties, and, had I not been unwilling to interfere with the decision of the Council, to whom the claim was with your concurrence referred, I should have been disposed to reduce the amount.

Sanction for
compensation
awarded
to H. and
W. Dumaresq.

I am, &c.,

E. G. STANLEY.

RIGHT HON. E. G. STANLEY TO GOVERNOR BOURKE.
(Despatch No. 86, per ship Henry Tanner; acknowledged by
Sir Richard Bourke, 4th February, 1835.)

Sir,

Downing Street, 29th May, 1834.

29 May.

In a letter, which was addressed to you by direction of my Predecessor, dated 12 of August, 1831, you were instructed to send Home at Quarterly Periods a schedule of all new appointments or allowances and augmentations of existing salaries, as well as of all payments for services, which may have taken place within such period and in respect of which cash Warrants may have been addressed to the Commissary; such schedule specifying

Instructions *re*
transmission
of quarterly
schemes.

1834.
29 May.

the nature and date of the authority, upon which the Warrants or directions had been founded, or, in cases where the transaction had been reported Home and no reply received, the date of the Governor's Report upon the subject.

Schedules
required by
audit
commissioners.

These Schedules appear to have been called for upon the recommendation of the Commissioners of Audit, contained in a Report from that Board, dated 27 of June, 1831, and had reference only to that portion of the Expenditure of New South Wales, which was connected with the accounts of the Convict Establishments.

Additional
returns
required.

Since the date at which that recommendation was made, the examination of the Colonial Accounts generally has been transferred from the late Colonial Audit Office to the Board of Audit at Somerset House; and, as great facilities have been derived from the examination of the class of accounts first mentioned from the information contained in the Quarterly Schedules to which I have adverted, the Commissioners of Audit have suggested the adoption of the same arrangement, in regard to all other portions of Expenditure connected with your Government. I have accordingly to enclose the form of a Return, which has been prepared by the Commissioners of Audit with a view to their being correctly informed as to the authorities upon which any new appointments, increase of salaries, or any payment of a special nature may have been founded. You will give directions for the preparation of these additional Returns, commencing from the 1 of January, 1834, taking especial care that they be punctually transmitted to me at the end of every Quarter from that date, in order that they may be forwarded to the Treasury for the information and guidance of the Auditors.

I am, &c.,

E. G. STANLEY.

[Enclosure.]

Form for
schedule.

SCHEDULE of all Appointments to Public Offices, and of all Alterations made in the Salaries or Allowances of Public Officers in the Colony (or Station) of _____ during the Quarter ended _____, as also of all Payments of an unusual or special description, directed or sanctioned by the Governor (or Officer Commanding) during the same period, and paid under his Warrant or Authority either out of the Colonial Funds or from the Military Chest.

Appointments to Officers.

Title or description of Office.

Amount of Salary.

Out of what Fund payable, Colonial or Military Chest.

Name of the Person appointed.

Date and description of the authority, whether by Governor's (or Commanding Officer's) Warrant or otherwise by which the Party was appointed.

Date and description of the Authority or Instructions (if any) from His Majesty's Government in England, authorizing the Appointment.

1834.
29 May.

Form for
schedule.

Date of the Governor's (or Commanding Officer's) Dispatch to His Majesty's Government in England, reporting the transaction in cases where no previous Authority may have been received.

Column for the remarks on any particular case, and for the Statement of any special circumstance.

Alterations in the Amount of Salaries or Allowances.

Title of Office or Appointment, in which the alteration has been made.

Nature and amount of the alteration.

Name of Officer.

Date of Governor's (or Commg. Officer's) Warrant or Authority by which the alteration was directed or sanctioned.

Date and description of the Authority or Instructions (if any) from England authorizing the alteration.

Date of the Governor's (or Commg. Officer's) Dispatch to His Majesty's Government in England, reporting the transaction in Cases where no previous authority may have been received.

Column for remarks upon any particular case, and for the Statement of any Special circumstance.

Payments of an Unusual or Special Description.

Nature of Service.

Amount.

Out of what Fund payable, Colonial or Military Chest.

To whom paid.

Date of Governor's (or Commg. Officer's) Warrant or Authority by which the payment was directed or sanctioned.

Date and description of the Authority or Instructions (if any) from England authorizing the payment.

Date of the Dispatch of the Governor (or Commg. Officer) to His Majesty's Government in England, reporting the transaction in cases where no previous Authority may have been received.

Column for remarks upon any particular case, and for the statement of any special circumstance.

UNDER SECRETARY LEFEVRE TO GOVERNOR BOURKE.

(A private despatch per ship Henry Tanner; acknowledged by Governor Bourke, 6th December, 1834.)

Dear Sir,

Downing Street, 1st June, 1834.

1 June.

On the 26th Ultimo I had occasion to trouble you with a claim against Mr. Kinchela from a Tradesman for certain goods supplied to him on his first appointment to his present office in New South Wales. I regret to be again so soon obliged to forward another representation of the same nature, and Mr. Stanley requests that you will communicate with Mr. Kinchela upon the subject, in the hope that it may be in his power to make arrangements for satisfying all pecuniary demands of this description.

Transmission
of claim on
J. Kinchela.

I remain, &c.,

JOHN LEFEVRE.

1834.
1 June.

Memorial
from children
of Revd.
J. Sandiford
re debt due by
J. Kinchela.

[Enclosure.]

MEMORIAL of the Orphan Children of the late Revd. James
Humbly Sheweth, Sandiford.

That John Kinchela, Esq., of Kilkenny, afterward Barrister at the Irish Bar, passed a Bond in the year 1815 to said Revd. Jas. Sandiford for the principal sum of Two hundred and fifty pounds, which he had saved out of a small living he held in the Diocese of Cloyne, Bishop Bennett then filling that See. Said Revd. James Sandiford looked forward to this sum as part of the means he had provided to keep his young family from want in case of his death, and which did occur when they were totally incapable of providing for themselves.

Memorialists' Guardian, Miss Eliza Lune, made several efforts to ascertain where said Jno. Kinchela resided, and, at the expiration of some years, heard that he was appointed one of His Majesty's Judges at New South Wales, to whom she forwarded letters stating that, since his departure, his old friend said Revd. Jas. Sandiford had died, and left the amount of his said Jno. Kinchela's Bond with all interest due on it, as a provision for his, the said Revd. Jas. Sandiford's children; she had also application made to him, stating the same circumstances by a respectable person residing at Sydney, but no answer or communication has since been received from him.

In proof of the intimacy, which existed between said Revd. Jas. Sandiford and Jno. Kinchela, a copy of one of the numerous letters written by the latter to his friend on this subject, Memorialists beg leave to annex; and should H.M. Government be graciously pleased to take their case into consideration with reference to this debt due to the Orphans by a Gentleman holding so high an office under them, Memorialists will ever feel gratified.

ELIZA SANDIFORD.

SAML. SANDIFORD.

SARAH SANDIFORD.

DANL. S. SANDIFORD.

MARIA HARRIET SANDIFORD.

[Sub-enclosure.]

COPY OF JOHN KINCHELA'S LETTER ALLUDED TO IN MEMORIAL.

My dear Sandiford,

Kilkenny, 8th August, 1833.

About ten days back I received your letter, which I would have answered immediately, but waited until after the Assizes here in the hope of being enabled to send you some money, which I am sorry I was disappointed in. Of your heavy sufferings and visitations, I have heard long since, and would have written to express my feelings on the occasion, but, as I could not send you money, which I knew you much wanted, I was ashamed to accompany a letter of condolence with an apology, or to add to your Sorrows by an account of my losses or the present state of embarrassment, in which I am involved, or the hopes and expectations on which I have been fed. All I can or shall say is that I lament I must send you an excuse; but I pray to God that a time may soon come, when I will not sit down with shame, reluctance and distress to write to one of my oldest friends; believe me you are never out of my recollection, and whenever I shall have anything pleasant to communicate, you shall be the first to it.

Dear Sandiford,

Yrs., &c.,

JOHN KINCHELA.

Letter from
J. Kinchela
to Revd.
J. Sandiford.

RIGHT HON. T. SPRING RICE TO GOVERNOR BOURKE.

1834.
5 June.

(A circular despatch per ship Henry Tanner.)

Sir, Downing Street, 5th June, 1834.

His Majesty having been pleased to honor me with the Appointment of
Seals of the Colonial Department in the room of Mr. Stanley, T. Spring Rice
I take the earliest opportunity of acquainting you therewith. as secretary of
state.

It will give me great satisfaction to be able to fulfil His Majesty's Gracious Intentions in this appointment; and as it is His Majesty's Pleasure that your Despatches should, for the future, be addressed to me, I shall not fail to lay them immediately before the King, and to transmit to you such Orders as His Majesty shall think fit to give thereupon.

I am, &c.,
T. SPRING RICE.

RIGHT HON. T. SPRING RICE TO GOVERNOR BOURKE.

(Despatch No. 1, per ship Henry Tanner.)

Sir, Downing Street, 6th June, 1834.

6 June.

I have received your despatch No. 88 of the 2d November last transmitting a Rule, which had been made by the Judges of the Supreme Court of New South Wales, dated the 29th of September, 1829, for separating the Profession of Barristers from that of Attorneys at Law, and I have now the honor of signifying to you His Majesty's gracious allowance of the said Rule.

I am, &c.,
T. SPRING RICE.

GOVERNOR BOURKE TO RIGHT HON. E. G. STANLEY.

(Despatch marked "Separate." per ship Cognac Packet; acknowledged by earl of Aberdeen, 26th September, 1834.)

Sir, Government House, Sydney, 19 June, 1834.

19 June.

Some few days ago I received from Mr. Ryder Brennan a letter from Lord Viscount Goderich, of which a copy is transmitted. By this you will perceive that His Lordship desired to appoint Mr. Brennan to an office in this Colony as soon as any should suit him became vacant. I have reason to know that Mr. Brennan, who has been bred to the law, is desirous of obtaining the appointment of Crown Solicitor in this Colony, and, had he been here at the time that I found it necessary to suspend Mr. Moore, I would have named him to fill that situation until His Majesty's pleasure was known. I can now do nothing more towards the completion of Mr. Brennan's wishes than to anake you acquainted with them, and to add that I consider

Inability to give
employment to
R. Brennan.

1834.
19 June.

it would be advantageous to the public Service and would certainly on this account and for other reasons be satisfactory to me to find Mr. Brennan put in possession of this office. I may observe that Mr. Chambers, who now performs the duty of Crown Solicitor, has not been led to form any expectation that he will receive a permanent appointment. I have, &c.,

RICHD. BOURKE.

[Enclosure.]

[A copy of this letter is not available.]

RIGHT HON. T. SPRING RICE TO GOVERNOR BOURKE.
(Despatch No. 5, per ship Henry Tanner.)

24 June.

Sir, Downing Street, 24th June, 1834.

Despatch
acknowledged.

I have received your Dispatch No. 99 of the 5th December last, transmitting a Memorial from Mr. John Wallace, a Clerk in the Department of the Colonial Treasurer, praying that he may retain the separate remuneration which had been granted to him before the dissolution of the Church and School Corporation.

Approval of
additional
salary for
J. Wallace.

As it appears by the statement in the Memorial of Mr. Wallace and by the concurrent testimony of the Treasurer and yourself that the alteration in the arrangements relating to the Clergy and School funds in New South Wales have not, by any means, tended to diminish the business transacted at the Treasury connected with these branches of the public Expenditure and Establishments, you will consider yourself authorized to continue to Mr. Wallace the additional Salary of £25 per Annum, which had been assigned to him in consideration of his having charge of the accounts of the late Church and School Corporation, which are now kept in the Treasurer's office. I am, &c.,

T. SPRING RICE.

RIGHT HON. T. SPRING RICE TO GOVERNOR BOURKE.
(Despatch No. 6, per ship Henry Tanner.)

25 June.

Sir, Downing Street, 25th June, 1834.

Instructions *re*
statements of
advances to
immigrants.

I have the honor to transmit to you the Copy of a Report addressed by the Commissioners of Audit to the Lords Commissioners of His Majesty's Treasury, on the subject of the Advances made by the Government to Emigrants; and I have to request that you will cause annual statements to be regularly furnished, detailing the particulars of the Advances made to Emigrants, the terms on which they are made, the Security taken for their repayment, and the sums received on account of them, in the manner suggested in the Report of the Said Commissioners of Audit.

I am, &c.,

T. SPRING RICE.

[Enclosure.]

1834.
25 June.

COMMISSIONERS OF AUDIT TO LORDS COM'RS OF TREASURY.

My Lords, Audit Office, Somerset Place, 28th April, 1834.

We beg leave to state that, on the examination of the accounts of the Colonial Treasurer of N. S. Wales for the year 1832 (the latest accounts of that Officer received by us), we found that, in pursuance of directions from the Governor, stated in each case to be founded on Special Despatches addressed to him by the Secretary of State for the Colonies, the Treasurer from time to time paid to the Agents or Masters of vessels conveying free Emigrants to that Colony different Sums varying from £10 to £20 pr. Family (but generally the latter amount) for the passage of such Emigrants from England to N. S. Wales.

Report by audit
commissioners
on advances to
immigrants.

These Sums, amounting in the year 1832 to £2,600 and upwards, were, as appears from the vouchers produced, to be considered as Advances to the Emigrants, whose promissory notes are stated to have been taken for the amount, and to have been placed in the hands of the Collector of Internal Revenue, with a view to his obtaining payment from the Parties by instalments; but, as the vouchers do not mention the amount of such instalment, nor the periods at which they would fall due, and as no repayment has been brought to account, we have already requested further information on the subject, and we should therefore have refrained from troubling your Lordships at present, had we not observed lately in the public Papers a circular professing to have been issued by Mr. Hay, dated Downing Street, 6th April, 1834, from which we collect that an extensive system of Advances of this kind from Colonial Funds is likely to take place, and perhaps to remain in force for some time to come, the repayment of which Advances are apparently not to be made on any fixed principle, but to be dependant upon the Special Circumstances of each case.

Under this impression, we submit whether your Lordships may not deem it expedient to cause us to be furnished with Copies of any general instructions, which may have been given for carrying into effect the System in question, and in case such Instructions should not have made Special provision for the accounts to be kept and rendered, in respect of these Advances and repayments, to the Secretary of State or this Board; we beg leave to submit whether it would not be desirable that the local Auditor or some other competent Officer in the Colony should be directed to frame at the close of each year a statement, containing in detail the particulars of every advance made in the course of the year, the terms on which, according to the promissory note or any other authorized arrangement, the repayment is to take place, as well as the Sums actually received in consequence; together with explanations, shewing the cause of the non-payment of any instalments which may be due.

Proposed
transmission
of annual
statement.

Such a Statement would not only enable the Secretary of State to form an opinion as to the success of the measure, but probably tend to obviate numerous doubts and Queries, which would otherwise arise in this office during the examination of the entries relative to these advances and repayments.

With this view, we take leave further to suggest that these annual statements should be prepared in duplicate, one Copy of

1834.
25 June.

the same to be transmitted to the Secretary of State, and one to this Office, with the annual account of the Treasurer of N. S. Wales; and that a similar Course should be observed in respect of V. D. Land and Western Australia, should the arrangement be extended to the latter Colonies.

We have, &c.,
F. S. LARPENT.
J. WISHAW.
H. F. LUTTRELL.

RIGHT HON. T. SPRING RICE TO GOVERNOR BOURKE.

(Despatch No. 7, per ship George Hibbert; acknowledged by Governor Bourke, 3rd December, 1834.)

29 June.

Sir,

Downing Street, 29th June, 1834.

Application by
A.A. company
for appointment
of H. Dumaresq
as magistrate.

In a letter addressed to you by direction of my Predecessor on the 11th of June, 1833, you were informed that the Court of Directors of the Australian Agricultural Company had appointed Lieut. Colonel Dumaresq to be Commissioner of the Company upon the retirement of Sir Edward Parry. It has been represented to me by the Directors that it is desirable to the Interests of the Company that Colonel Dumaresq should be invested with the same Magisterial Powers and authority as their late Commissioner. Altho' I am desirous of shewing due attention to the interests of the Company, yet I consider it still more important for the benefit of the Colony not unnecessarily to interfere with your discretion in the appointment of the Local Magistracy. I shall, therefore, limit myself to directing your attention to this application on the part of the Company, in the confidence that you will exercise a sound discretion on the subject.

I am, &c.,
T. SPRING RICE.

GOVERNOR BOURKE TO RIGHT HON. E. G. STANLEY.

(Despatch No. 54, per ship Cognac Packet.)

Sir,

Government House, Sydney, 29th June, 1834.

Leave of
absence for
J. T. Morrisset.

I have the honor to inform you that, upon application from Lieut. Colonel Morrisset, Commandant at Norfolk Island, representing his very dangerous state of health and the necessity of his immediate removal from the Island, I have given him one year's leave of absence from the 20th February last, which period he proposes to pass in this Colony, taking the benefit of the Medical assistance he can procure near Sydney. Under these circumstances, I have thought it right to allow him to draw half his salary for the period in question; and I have appointed Major Anderson of the 50th Regiment to take Lieut. Coll. Morrisset's charge at Norfolk Island, issuing to him the other moiety of the Commandant's Salary.

J. Anderson
appointed
commandant
at Norfolk
island.

Since Lieut. Colonel Morrisset's arrival here from England, he has informed me that he addressed a letter to Mr. Hay under date the 6 January last, of which he has sent me a copy. It appears by this letter that Lieut. Colonel Morrisset wishes to dispose of his Commission in the Army, and to obtain employment in New South Wales, where he proposes to settle. In the present impaired state of his health, he does not appear capable of active duties; but, if a permanent recovery should take place, I believe there are situations in which he might be usefully employed.

1834.
29 June.
Proposed sale of
commission by
J. T. Morrisset.

In the meantime his Place is filled very much to my satisfaction by the Officer who holds it. The 50th Regt. will not be removed from hence in the usual course of Service for three or four years, during which time the duties of Commandant at Norfolk Island will be efficiently discharged for the Salary of £300 a year. It will therefore be for the consideration of His Majesty's Government whether it will be advisable to make a new appointment during that period, and whether it may not for the future be as well to fill up the situation of Commandant at Norfolk Island by an Officer from one of the Regiments on the station, by whom the Salary of £300 will be considered a sufficient remuneration.

Commandant at
Norfolk island.

I have, &c.,
RICHD. BOURKE.

GOVERNOR BOURKE TO UNDER SECRETARY HAY.

(Despatch per ship Cognac Packet; acknowledged by
under secretary Hay, 15th December, 1834.)

Sir, Government House, 29th June, 1834.

In compliance with the directions contained in your letter of the 18th August last, enclosing a statement of the value of certain Medicines delivered over to the Hospitals of New South Wales by the Surgeons of Convict Ships in the year 1831, and desiring to know whether those articles have been duly appropriated, and whether any and what Regulations are in force to prevent stores of this sort being misapplied in general, I have the honor to transmit herewith copies of communications received from the Deputy Commissary General and the Inspector of Colonial Hospitals, in answer to the enquiries which I directed to be made upon the subject. From this then, it appears that all Medical Comforts sent from England in Convict Ships are received by the Commissariat together with the remains of provisions. The Medecines which remain, the most valuable articles being generally consumed, are delivered by the Surgeons of the Ships to the Inspector of Hospitals at this Station. This practise

Reports re
medicines from
convict ships.

Disposal of
medical stores.

1834.
29 June.
Disposal of
medical stores.

has been adopted in consequence of its having been found by experience that they were not worth the expence of conveyance home. All Medecines in charge of the Inspector of Hospitals are issued upon the Requisitions of the Medical Officers at the Several Stations in the Colony, who account for their consumption by Quarterly Returns, which are consolidated in the general annual Return forwarded by the Inspector thro' the Governor to the Secretary of State for the Colonies.

Want of control
on expenditure
of medical
stores.

I have formerly taken leave to observe that the Expenditure of Medecines and Medical Stores under the Authority of the Colonial Inspector of Hospitals has no cheque in the Colony. Large supplies of Medecines are sent out from England and placed under his charge, as well as the residue of Medecines from Convict Ships. His requisitions on the Commissariat for Medical Stores of all sorts are indeed approved by me as Commander of the Forces; but I cannot venture to assert that I am a judge of the propriety of the applications or that any due controul is exercised by the fact of the Requisitions passing thro' my hands. I have in consequence more than once recommended as a measure of Economy that a Staff Surgeon should be re-appointed for this Station, to whom the charge of the Medecines and Medical Stores should be assigned. I have, &c.,

RICHD. BOURKE.

[Enclosures Nos. 1, 2 and 3.]

Reports
transmitted.

[*These consisted of letters from principal surgeon Bowman and deputy commissary-general Laidley dated 29th April, 14th June and 23rd April, 1834, reporting that the medicines were appropriated for colonial purposes and the chests sent to out-stations.*]

RIGHT HON. T. SPRING RICE TO GOVERNOR BOURKE.

(Despatch No. 8. per ship George Hibbert.)

30 June.
Leave of
absence granted
to F. Forbes.

Sir,

Downing Street, 30th June, 1834.

I have received your Despatch No. 10 of the 14th February last, enclosing an application which had been made to you by Mr. Chief Justice Forbes for permission to return to this Country for the benefit of his health.

In answer, I have to convey to you my authority to grant to Mr. Forbes leave of absence for the period of Twelve months; but he must distinctly understand that he will not be allowed to draw more than half his salary during the time that he may be absent from his Duties.

I am, &c.,

T. SPRING RICE.

GOVERNOR BOURKE TO RIGHT HON. E. G. STANLEY.

(Despatch No. 56, per ship James Harris; acknowledged by
lord Glenelg, 26th June, 1835.)

1834.
30 June.

Sir, Government House, 30th June, 1824.

I have the honor to report to you that, on the 13th Ultimo, I directed the Officers of Customs at this Port to admit for Home Consumption the Cargo of the Schooner Kaliopapa, consisting of the articles enumerated in the Copy of the Manifest transmitted herewith, upon the Master of that Vessel giving bond to take (according to his declared intention) a Return Cargo consisting of British Manufactured goods and of articles the produce of this Colony to the value of at least three fourths of the goods landed by him. The Officers of Customs having thought it their duty to protest against the admission, I beg leave to bring the circumstances of the case under your notice.

Admission of cargo of vessel from Tahiti.

Protest of customs officers.

The Schooner Kaliopapa is the property of an Englishman, now a naturalized Tahitian and residing at Tahiti. The Vessel is American built, but has a Register from the King of the Sandwich Islands, countersigned by the British Consul residing at Honolooloo and is deemed and taken to be a Tahitian Vessel by the Laws of that Country. She brought a Cargo, the produce of Tahiti. The Officers of the Customs objected to its admission on the ground that the Vessel was American. I am induced to consider myself authorised in overruling the objection by a consideration of a paragraph in Mr. Secretary Huskisson's Circular Despatch of the 8th September, 1827, in which it is stated that "the Commercial intercourse of the Cape of Good Hope, Mauritius, Ceylon, New South Wales and Van Diemen's Land with the foreign territories within the limits of the East India Company's Charter has stood, since the first acquisition of those Colonies by Great Britain, upon a footing peculiar to itself under various successive statutes, orders of the King in Council and local ordinances; the Ships of all the Territories within the Company's Charter have at all times been permitted to carry the produce of their own Countries to any of the five Eastern Colonies."

Reasons of R. Bourke for granting admission.

It does not appear that any rigid enquiry has been made as to the origin of the few Vessels, which have occasionally traded between the Sandwich Islands and this Colony. The trade has been considered as privileged and free, and, by a local Ordinance of the 11 Geo. No. 6, Sect. 42 (19 March, 1830), it has been placed on the same footing as the Coasting Trade.

Local ordinance re trade with islands.

It is doubtless an object of some importance to encourage the nascent intercourse between this Colony and the South Sea

1834.
30 June.
Policy of
English
government.

Islands; and I shall be happy to find that the step, I have taken in this instance, is approved by His Majesty's Government. The recent order, received here by the Officers of Customs upon the subject of Vessels built at New Zealand, has shewn that it is not the wish of the Lords of the Treasury to enforce rigidly the navigation Law of England in the trade carried on in these Eastern Seas.

I have, &c.,
RICHD. BOURKE.

[Enclosure.]

[A copy of this paper is not available.]

GOVERNOR BOURKE TO RIGHT HON. E. G. STANLEY.

(Despatch No. 57, per ship James Harris; acknowledged by earl of Aberdeen, 24th December, 1834.)

2 July.

Sir,

Government House, 2 July, 1834.

Nomination
of Revd.
G. K. Rusden
as chaplain
at Maitland.

I have the honor to inform you that, some short time before Archdeacon Broughton left this for England, it was known in the Colony that the Revd. G. K. Rusden and family intended to come out with the view of settling in the Colony, if Mr. Rusden could procure any employment in his profession to occupy his time and augment his income. It occurred to the Archdeacon and myself that the opportunity would be favorable for removing one of a Class of Persons, who have not been found to succeed here, and that Mr. Rusden might be advantageously placed as Chaplain at Maitland in the room of the Catechist, Lieut. Wood of the Royal Navy, whose appointment it was desirable to reduce. Lieut. Wood is a man of excellent character and great moral worth; but, as has been formerly intimated to the Secretary of State, the Catechists have not been found to obtain that influence over the People to whom they preach, which usually attends the labours of an Ordained Minister. Two Catechists were therefore previously reduced, and a third has been replaced by Mr. Rusden since the 1st Instant. The latter is to receive the same stipend and allowance as a Catechist for the remainder of this year; but I have proposed and the Legislative Council have consented to fix his stipend at £200 per annum for the year 1835, the stipend of a Catechist being £182 10s. only. In proposing the Salary of Mr. Rusden at £200 a year, I have had reference to the arrangement for the Church of this Colony, which I had the honor to submit in my despatch of 30th September, No. 76. Mr. Rusden

has accepted employment on these terms, and I have to request your Confirmation of his appointment. The presence of a Clergyman of the Established Church is very much desired at Maitland, where the Population is rapidly increasing.

1834.
2 July.

I have, &c.,
RICHD. BOURKE.

RIGHT HON. T. SPRING RICE TO GOVERNOR BOURKE.
(Despatch No. 9, per ship George Hibbert.)

Sir, Downing Street, 3d July, 1834. 3 July.

I transmit herewith copies of a Memorial and of two explanatory letters from Captain Charles Sturt, late of the 39 Regt. of Foot, and beg to acquaint you that, in consideration of the services of that Officer on two Expeditions* undertaken by order of the Colonial Government in 1827 and 1828, and of the valuable discoveries made by him on those occasions, His Majesty has acquiesced in the request of Captain Sturt to receive a grant of Land in New South Wales, to which reward he is not considered the less entitled from the circumstance of his not having obtained it after his return to Sydney, and when a remuneration of this nature was granted in the case of two Junior officers composing the Expedition. You will therefore consider yourself authorized to make to Captain Sturt a Grant of five thousand acres upon the terms in force as to Quit Rent, etc., prior to the adoption of the late Regulations for the disposal of the Crown Lands by sale; and you will extend to him the same privilege of selection (with the exception of those Locations which may be advertized for sale) as was enjoyed by the Settlers during the existence of the former system.

Land to be
granted to
C. Sturt.

You will perceive that Captain Sturt has, in consideration of his receiving this Grant, signified his readiness to relinquish all further payments on account of the Pension granted to him by the Lords Commissioners of the Treasury, which Pension will accordingly cease from the date at which possession of the Land composing this Grant may be given to him; and I have also taken care to explain to Captain Sturt that he is not to expect, in addition to the above grant, any benefit to which he might otherwise have been considered entitled as a retired officer of twenty five years standing, in pursuance of His Majesty's Regulations on that head. I have only further to recommend Captain Sturt to your favorable notice and to call your attention to the concluding part of his letter to me of the 13 Ulto., in which he places at the command of the local Government his future services in the furtherance of Geographical research. I am, &c.,

Pension
to cease.

Services
offered for
exploration.

T. SPRING RICE.

* Note 111.

[Enclosure No. 1.]

THE Memorial of Charles Sturt, late Captain in His Majesty's
39th Regiment of Infantry.

To the Right Honorable Edward S. Stanley, Principal Secretary
of State for the Colonies.

No. 4 Halkin Street, Grosvenor Place.

Most respectfully sheweth,

London, 9th May, 1834.

Arrival
in colony.

That your Memorialist proceeded to New South Wales in the
"Mariner," Convict Ship, of which he had the charge, in November,
1826, and that he arrived at Port Jackson in April, 1827.

Exploration
of Macquarie
river ;

That, at the close of the year 1828, he was employed by the Colo-
nial Government in surveying the Interior of that Country with a
view of ascertaining the nature and termination of the Macquarie
and Castlereagh Rivers, and that he not only performed the duty
upon which he was specifically sent, but explored on that occasion
a great extent of unknown Country, and on his return to Sydney,
after making several important discoveries, received the Public
Thanks of the Governor and Council.

and of Murray
River.

That immediately on his arrival in Sydney your Memorialist had
a severe fit of illness, consequent on the long exposure and severe
privations to which he had been subjected; but that, at the close
of the year 1829, Your Memorialist, having recovered from the
effects of his Journey, was sent a second time on a survey of the
Interior to trace the Morumbidgee River to its termination, and
that he followed its waters until they fell into a larger stream, and,
with six men only, succeeded ultimately in gaining the South Coast
of the Continent at a distance of 700 miles in a direct line from
Sydney and 500 beyond any previous discoveries.

That your Memorialist passed with difficulty through the numer-
ous tribes of Natives, with whom he daily communicated and
returned to Sydney after an absence of eight months, during which
he had laboured at the oars in common with his men over a
course of more than 3,000 miles, in a state of the greatest exhaus-
tion, and was again taken ill after having been a few days under
shelter.

Service
at Norfolk
island.

That, in order to perform this duty to the Colony, Your Me-
morialist waived his claim to the Command of Port Macquarie;
and that, being first for duty on the Roster when he recovered from
the effects of his Second Expedition, he was sent without any addi-
tional allowance to Norfolk Island.

That sickness again overtook your Memorialist on that Settle-
ment, and that, after a residence upon it of eleven months, he was
removed to Sydney for better Medical advice.

Return to
England for
ill-health.

That, in December, 1831, your Memorialist's health, which had
been gradually declining, gave way, and his immediate return to
Europe was recommended by a Medical Board; but that before he
embarked he lost the use of his right eye, and subsequently of his
left, and remained in total darkness for several months, insomuch
that on his arrival in England he could not walk without an
attendant.

That, in June last, your Memorialist, in consequence of the great
expenditure to which his illness had put him, applied to His Ms. Gov-
ernment for some remuneration, and, on the application of the
Earl of Ripon to the Lords of the Treasury in his behalf, was

offered a Pension of £100 per annum, on condition of your Memorialist's retiring from active service, and to commence, therefore, when he should cease to receive Military full pay, the Pension in that case to continue until his sight was restored, or some situation could be conferred upon him by the Secretary of State.

1834.
3 July.
Pension
granted.

That your Memorialist had no alternative but to accept the offer made to him in order to meet the immediate and unavoidable expences attendant on his situation; and that thus, after an arduous service of Twenty years, at a moment when he was high up on the List of Captains, he placed himself in a worse condition than when he first entered the army, by selling his Commissions, two of which his Lieutenantcy and Company he had purchased. A step which necessity alone obliged him to take.

That, while your Memorialist has been a severe sufferer by loss of health, pecuniary sacrifices and the relinquishment of his profession, his Services have been of great value and importance not only in laying open an extensive tract of Country for Colonization, and in the discovery of prolonged interior water communication, but in contributing largely to a knowledge of the Geographical features of the Australian Continent at the least possible expence to the Colonial Government.

Services
in colony.

That every person hitherto employed in the Interior Survey of New South Wales has received very considerable tracts of Land for such service,

Land grants
for services in
exploration.

That the two Gentlemen, Mr. Hume who accompanied your Memorialist on his first, and Mr. Macleay who accompanied him on his second Expedition, both acting in subordinate situations, were so rewarded immediately on their return to Sydney, from the service on which they had been employed; and that it was solely because the Governor of New South Wales referred his services to the Secretary of State as a source of high remuneration, that your Memorialist, the Chief of two Expeditions, received no similar reward.

That, after an expensive and lingering illness of two years and a half, Your Memorialist finds himself so far recovered as to be fit for ordinary occupation; and that, being unwilling to remain idle at Home, he is most anxious to proceed to New South Wales as a Settler.

Partial
recovery
of health.

Desire to settle
in colony.

That he purposes taking with him to the Colony several excellent Agriculturists to assist him in following up those pursuits at a considerable expence to himself; and he trusts that, as his services to the Colonial Government, which nearly equal the united efforts of the late Surveyor General and the others who preceded him, were performed at a time when, but for measures intended for his benefit, Your Memorialist might have been rewarded as these gentlemen were, You will be of opinion that he is peculiarly and unfortunately circumstanced, and will be pleased to authorise a remission of Purchase money to be made to him equivalent to a grant of 2,560 acres.

Request for
land grant.

Your Memorialist will in that case resign his Pension at the termination of the present Quarter, and will give up his claims to any future provision; but your Memorialist being entitled to a certain benefit agreeably to His Majesty's Regulations as a retired Captain of twenty years' standing in the Service, he confidently trusts a claim of such a nature, which is entirely unconnected with any other now urged, and of which he can avail himself under

Pension to be
relinquished.

Claim as
retired captain.

1834.
3 July.

any circumstances, will not be brought into the scale against him on the present occasion; but that, as the reward he solicits in compensation for his sufferings and blighted prospects is comparatively far less than that which has already been granted to others who had not half his claims, the voluntary sacrifice he has offered to make will weigh proportionably in his favor, and that the Prayer of his Petition will be granted to him, and he will ever as in duty bound Pray.

CHAS. STURT, late Cap., 39th Regt.

[Enclosure No. 2.]

MR. CHARLES STURT TO ———.

Sir,

Newton Hall, Middlewick, 20 May, 1834.

In reference to the Memorial I transmitted thro' you to the Right Honble. The Secretary of State for the Colonies, praying that, in consideration of my services in New South Wales and the consequent necessity that obliged me to relinquish my profession, He would be pleased to direct that, in proceeding to Sydney as a Settler, I should receive a grant of 2,560 Acres of Land; I have to request that, in submitting it to him, you will mention the circumstance of my having been given a small allotment by General Darling a short time prior to my leaving the Colony.

This allotment, a portion 1 Acre 3 Rds. of the Military Garden, had a Cottage upon it, which might have increased its value, but was in such a state of delapidation from age as to be wholly unavailable. General Darling's object was barely to cover the personal expences I had incurred, while employed by the Colonial Government; and this mode of doing so was adopted in consequence of the representations of Colonel Lindesay, not on any application of my own.

Allotment
granted to
C. Sturt by
R. Darling.

Proceeds of sale
of allotment.

The proceeds of the Sale of the Allotment (£450) somewhat more than covered my personal expences, and enabled me to reward the men who had accompanied me on my Expeditions; but it by no means covered the subsequent expences to which I was put on my voyage to England and since my arrival here.

Supposing therefore that General Darling had intended to reward my services by this, a reward that would have been inferior to the reward given to one of my assistants, I humbly conceive that the untoward events, that have occurred to me in the ruin of my professional prospects, have cancelled such intention and given me sufficient claim to Mr. Stanley's favourable consideration; but, as I have already stated, General Darling's object was to reward my personal expences.

As I made no claim of the kind in my memorial, I thought it unnecessary to mention these facts in the body of it; but I have considered it my duty to draw Mr. Stanley's notice to them, both to prevent any future misconstruction and to guide his judgment on my case.

I have, &c.,

CHAS. STURT.

[Enclosure No. 3.]

MR. C. STURT TO RIGHT HON. T. SPRING RICE.

No. 4 Halkin Street.

Sir,

Grosvenor Place, 13th June, 1834.

I had the honor some weeks ago to submit for the consideration of His Ms. Government a Memorial, referring to my services in New South Wales and soliciting a Grant of Land as a reward for them, it being my intention to proceed to that Colony with a view of

permanently settling in it. I venture to state the particulars of the case, which it is admitted on all hands have entitled me to the consideration of His Ms. Government, appealing to your sense of Justice that that consideration ought not to be the less favourable on account of the time that has elapsed since those services were performed, and because no opportunity has presented itself to His Ms. Government either to reward them or to compensate to me for the untoward circumstances to which they have led.

I beg most respectfully to state that, since writing my Memorial. I have ascertained that Mr. Hume, who accompanied me on my first Expedition, received 2,560 acres of Land for his services on that occasion only.

On my return from my second Expedition, on which he did not accompany me, the Governor of New South Wales was pleased to recommend* me to the Earl of Ripon for Military Promotion, and I was accordingly recommended by his Lordship to the Genl. Commanding in Chief for a Majority; but, before any reply could reach General Darling, I had embarked on my return to Europe in a state of blindness and debility owing to the fatigue and privations to which I had been exposed.

On my arrival in England, I was informed that, however meritorious my services were, Lord Hill considered they were of a Civil not of a Military nature, and ought to be rewarded as such; but I was not at that time in a condition to receive any reward. So far was this from being the case that I was, in consequence of the state of my health, obliged to retire from the Army after a service of 20 years, and after an illness of two years and nine months am still labouring under a most serious defect of vision.

Had the Governor of New S. Wales foreseen that the result of my services would have been so ruinous to my professional career, or if he had taken the same view of them which General Lord Hill took, there can be no doubt but that he would have given me a Grant of Land as he gave to my assistants; nor can there be any doubt but that the Government would have confirmed any grant he might have considered I merited, since it was pleased to Express its sense of my services; and I most respectfully urge that the return of General Darling to Europe does not decrease their value; but that my sufferings and the loss of my profession give me additional claims to the attention and generosity of the Government.

Having voluntarily offered to relinquish my Pension of £100 per annum, which was given to me expressly to cover the expences of a lingering illness, I confidently trust you will consider that, as Chief of two Expeditions, I deserve a greater reward than that which has been conferred on one of my assistants for his services on one Expedition only; and that you will not think me inconsiderate, if I venture to hope that Five Thousand acres will be conceded to me, who have put so many millions of acres at the disposal of the Government and opened so wide a Field for future Settlements.

I have to beg your acceptance of a Copy of my Journals, wherein my Proceedings are more particularly detailed; and I would respectfully add that, if it should please Providence to restore to me the vigour of those organs without which my services would be of little avail, they shall be at the Command of the Government, either in promoting the public good or in the furtherance of Geographical research.

I have, &c.,

CHAS. STURT, late Capt., 39th Regt.

1834.

3 July.

Services
of C. Sturt.

Land granted
to H. Hume.

Recommendation of
C. Sturt for
promotion.

Reasons for
retiring from
army.

Probable land
grant from
R. Darling.

Offer to
relinquish
pension.

Land grant
expected.

Services offered
for exploration.

1834.
3 July.

GOVERNOR BOURKE TO RIGHT HON. E. G. STANLEY.
(Despatch No. 58, per ship James Harris; acknowledged by
earl of Aberdeen, 25th December, 1834.)

Sir, Government House, 3 July, 1834.

Transmission
of petition from
M. A. Stephen.

At the request of the widow of John Stephen, Esqr., late Puisne Judge of the Supreme Court of this Colony, I have the honor to forward a Petition from that lady praying for a Pension on the ground of Mr. Stephen's public Services and her own necessitous circumstances.

Mrs. Stephen has enumerated the various offices filled by her deceased husband under his Majesty's Government; as he labored under considerable infirmity at the time of my arrival, and resigned office in consequence soon afterwards, I am not able from personal observation to communicate anything respecting his usefulness as a Judge in this Colony; but I understand he was previously considered a person of considerable professional knowledge and ability. With regard to Mrs. Stephen's circumstances, I have reason to believe that she is left nearly if not wholly without provision and dependant upon persons, who have families of their own to provide for.

I have, &c.,

RICHD. BOURKE.

[Enclosure.]

Petition from
M. A. Stephen
soliciting
pension.

THE Humble Petition of Mary Anne Stephen, Widow of John Stephen, late Judge of the Supreme Court of New South Wales,

To The Right Honorable Edward G. Stanley. His Majesty's Principal Secretary of State, Colonial Department, etc., etc., etc.

Sheweth

That your Petitioner's late Husband, having filled the situations of King's Counsel and Solicitor General in the Leeward Islands for several years without any Salary, was appointed Solicitor General and Commissioner of the Court of Requests for this Colony in the year 1823.

That, on the 8th day of November, 1824, a Colonial Commission was issued by His Excellency Sir Thomas Brisbane, Governor of New South Wales, appointing your Petitioner's said Husband to act as Chief Justice of the Colony during the temporary absence of the then Chief Justice; and, upon a similar occasion on the 21st February, 1826, he was again appointed by His Excellency General Darling to perform the duties of the same office; upon both which occasions the thanks of the Government were tendered to your Petitioner's late Husband for his services as acting Chief Justice.

That the Commission of Puisne Judge of the Colony to Petitioner's late Husband is dated 17th August, 1825, and confirmed under the Sign Manual on the 30th March, 1826.

That your Petitioner's said Husband was compelled, in consequence of extreme ill health, to tender his resignation as Judge of the Supreme Court through the medium of Mr. James Stephen some

time in the year 1832, when the late Secretary of State was pleased to recommend a Pension to be granted to him, and the Lords of the Treasury directed the Sum of Five hundred Pounds per annum as a superannuated allowance.

That your Petitioner's said Husband died on the 21st day of December, 1833, having enjoyed his superannuated allowance not quite twelve months.

And your Petitioner begs to state that, in consequence of a numerous Family and the expences attendant upon his Office of Judge in this Colony, your Petitioner's late Husband was unable, during the period he filled that situation, to make even a competent provision for your Petitioner, his Widow, and that, unless she receives some assistance from the Government, she will be dependant for her maintenance upon the Creditors of her said Husband's estate, or upon the kindness of Relatives.

Your Petitioner would beg respectfully to refer to the list of Pensions granted to the Widows of Colonial Judges printed by order of the House of Commons on the 27th February, 1832, from which it will be seen that the Widows of Judges Dumi, Elmsley and Baby receive respectively the Pensions of £250, £200, £150, and of Judge Advocate Bent the Widow receives £200 per annum out of the Funds of this Colony.

Your Petitioner, without presuming to suggest any amount of Pension, would solicit the attention of the Colonial Department to the fact of the extended period of the public Services of her late Husband (being upwards of Thirty years); and, although so small a rate of Pension was granted to him in proportion of those sanctioned throughout the Colonies, as will be seen by the Parliamentary Return No. 211 of 1832, the average of which would have entitled him to about £900 per annum, yet would your Petitioner earnestly beg to throw herself upon the liberal consideration of the Treasury in apportioning to her such a rate of Pension as will secure a comfortable maintenance and support to herself and a Daughter.

And your petitioner as in duty bound will ever pray,
Sydney, 20th May, 1834.

M. A. STEPHEN.

1834.
3 July.

Petition from
M. A. Stephen
soliciting
pension.

RIGHT HON. T. SPRING RICE TO GOVERNOR BOURKE.
(A circular despatch per ship George Hibbert.)

Sir,

Downing Street, 4 July, 1834.

4 July.

As it is my wish that every office in the Colony under your Government should, upon becoming vacant, undergo a revision previously to its being filled up, I have to desire that, in reporting all vacancies to this Department, you should state your opinion upon the necessity of filling up such Appointment; upon the expediency of altering the Constitution of the Office; and also how far the duties and responsibility of the Office are proportioned to the Salary which has hitherto been attached to it.

Necessity for
revision of
offices on
vacancies.

I have, &c.,

T. SPRING RICE.

1834.
4 July.

GOVERNOR BOURKE TO RIGHT HON. E. G. STANLEY.
(Despatch No. 59, per ship James Harris; acknowledged by
earl of Aberdeen, 25th December, 1834.)

Sir, Government House, 4 July, 1834.

Plan by
J. Atkinson
for settling
immigrants at
Twofold bay.

At the request of Mr. James Atkinson, a gentleman about to settle in this Colony, I have the honor to transmit for your perusal a letter, which he has addressed to me on the subject of a Plan for sending out a number of families from the North of Ireland to form a settlement at or near Twofold Bay on the Eastern Coast of this Continent about ninety miles to the Southward of the present limits,* marked out for the location of Settlers. This Plan he informs me is to be submitted to your consideration by Colonel Verner of the County of Armagh in Ireland and other Gentlemen, with whom Mr. Atkinson was in communication on the subject when recently in Europe.

It is proposed to send out from Ireland in five years two hundred and fifty families, consisting of about one thousand individuals, at the expence of private persons who intend to make arrangements with a view to secure the repayment of the advances made by them for passage money, as the parties shall be able to afford it.

The Emigrants are to be Ulster Farmers of the class usually in occupation in that province of from thirty to forty acres of Land; all are to be Persons of good Character and industrious habits.

What chiefly calls for observation from me in this proposal is the deviation, which it involves from the ordinary system of granting Land in this Colony, the place fixed upon being beyond the present limit of location, the land being sought for without competition and the price (3s. 6d. per acre) being less than the regulated minimum. With respect to the first point, I would observe that, if to these Emigrants proceeding from Ireland permission be granted to settle beyond the limits of the Colony now marked for location, it will be impossible to deny a similar advantage to Persons coming out at their own charge or to the ancient Settlers and their families, who may desire to purchase Land in the same situation under the existing regulations. Already have the Flocks and Herds of the Colonists spread themselves over a large portion of this Southern Country. They are to be found in great numbers in Monarro Plains to the Westward of Twofold Bay, and some are said to roam as far to the Southward as Cape Howe. The greater part of these belong to settlers cultivating Land within the Limits, while some are the property of Lawyers, Merchants and Shopkeepers, living in Sydney and other Towus. These Flocks and Herds are usually attended by Overseers, either free or holding Tickets of Leave, and doubtless many Convicts

Criticism
of proposed
location without
limits of
settlement.

Flocks and
herds in
southern
districts.

* Note 108.

are sent by their Assignees on this service. Others are superintended by their owners, being persons who have no property whatever in Land, amongst whom are to be found some retired officers. The excellence of the pastures in the part of the Colony I am describing has induced the graziers to resort to it; and much of the fine Wool, which is exported to England, is taken from Sheep depastured on vacant Crown Land beyond the limits assigned for the location of Settlers. It is not the policy, nor would it be within the power of Government to prevent an occupation, which produces so profitable a return; but, being unauthorised, it is understood by the occupiers that they cannot under such circumstances expect protection from the Government. If a Settlement be made as proposed by Colonel Verner, or any other authorized settlement be established on the Southern Coast, it will then be impossible to deny to the Persons already occupying land in these parts the privilege of converting that occupation into property by purchase in the manner now fixed by regulation. This being effected, the Colonists thus regularly located will claim the protection of Government; and the establishment of Churches, Schools, Court Houses, Gaols, Custom Houses, a regular Police and Military Force, and the numerous institutions of civilized life will be required in a Country of great extent and slender population, to the support of which Institutions the Persons to be benefitted by them will not for some time be in condition to contribute in any considerable degree.

I have, with reference to the proposed Plan, thought it right to bring thus briefly before you the actual condition of the Southern part of this Colony, and to state the certain effect upon expenditure consequent upon throwing it open to location. I beg, however, I may not be understood as opposing such a measure; on the contrary, I would avoid as much as possible interposing any obstacle to the profitable employment of rearing Sheep for which great extent of country is required; this pursuit may indeed be continued for some time longer in its present form without much inconvenience; but the prevailing desire of the Colonists to extend to the Southward, the advantage which would result from enabling the graziers now scattered over that country to embark their Wool for Europe and Salted Meat for Home or Foreign Consumption at Twofold Bay, and to supply Van Diemen's Land from thence with live Cattle, induce me to think it would not be premature to extend the authorized limits of location as far to the Southward as that Harbour. The augmenting Revenue of the Colony (derived it is true almost entirely

1834.
4 July.

Policy of government re grazing without limits of settlement.

Results of authorising settlement at Twofold bay.

Proposal to extend limits of settlement to Twofold bay.

1834.
4 July.

from the duties of Customs levied at Sydney) appears equal to the support of some additional Establishment for the service of the Southern Country; and it would perhaps be desirable as a measure of precaution to disperse in that direction under legal restraint and in Military Custody some of the numerous bodies of Convicts, who may be expected to arrive from Great Britain under the present system of transportation.

Objections to
reduction in
minimum
price of land.

With regard to the second point, it is to be remarked that, if the principle of competition be abandoned and if the regulated price of land be reduced in favor of Persons brought out at the cost of an association, a similar reduction may be claimed with perfect fairness by all Persons, who arrive at their own charge, and thus a material and in my opinion an injurious change will be made in the system under which the vacant Crown Lands have been disposed of since the 1st July, 1831. I cannot therefore recommend that the Land, which the Association might select, should be disposed of otherwise than by Auction under the usual conditions, or that the Maximum rate should be less than five shillings an Acre. The Association would, however, be at liberty as a matter of course to avail itself of the aids offered to Emigration by the Bounties and advances payable under the existing regulations. With respect to the latter, I have lately had occasion to mention and may here repeat that no Payments have as yet been made by the Parties, who have received that assistance.

Unauthorised
occupation
of land for
sheep grazing.

In concluding this despatch, I would observe that it is not beyond the Southern boundary alone that Flocks and Herds of the Colonists have wandered for suitable Pastures. They are numerous to the South West along the Bank of the Murrumbidgee, and to the North they have crossed the Mountain Range into Liverpool Plains. Here indeed and still more Northerly on the Banks of Peel's River, 500,000 Acres of Land have been granted to the Australian Agricultural Company. In every direction, the desire of procuring good pastures for Sheep has led the Colonists far beyond the limits of location. These unauthorized occupations must not however be permitted to continue so long as to create any title to the Land in the occupier. Under the Provisions of an Act of Council passed last year, 4 Gul. IV, No. 10, measures* may be taken to prevent such a fraud on the Crown.

I have, &c.,
RICHD. BOURKE.

[Enclosure.]

[A copy of this letter is not available.]

UNDER SECRETARY HAY TO GOVERNOR BOURKE.
(Despatch per ship Henry Tanner.)

1834.
6 July.

Sir, Downing Street, 6th July, 1834.

In reference to that part of Mr. Secy. Stanley's Despatch to you, No. 73 of the 8th of April last, acquainting you with the intention of His Majesty's Government to advance (by way of Loan to those Females who might be unable to procure it) that sum, which is required in addition to the Government Bounty of £12 to complete the price of their passage, on condition of their repaying out of their earnings in the Colony £3 for every £2 10s. advanced on their behalf; I am now directed by Mr. Secretary Rice to transmit to you the promissory notes of the Females, emigrating in the "David Scott," who have accepted this Loan; And I am to request that you will pay into the Military Chest the sum of £5 for every note of the value of £6, and £2 10s. for each note of £3, taking such measures as you may deem sufficient for recovering the value of these notes from the respective parties who have signed them; whenever they may be in a condition conveniently to make such repayment.

Promissory
notes for
advances to
immigrants
per ship
David Scott.

I am, &c.,
R. W. HAY.

UNDER SECRETARY HAY TO GOVERNOR BOURKE.
(Despatch per ship Henry Tanner.)

Sir, Downing Street, 6th July, 1834.

In reference to Mr. Secretary Stanley's Despatch to you, No. 73 of the 8th of April last, apprising you that a vessel would be despatched with Female Emigrants to New South Wales during the present month, I have now the honor to acquaint you that they have been embarked on board the "David Scott."

Female
immigrants
per ship
David Scott.

As it will be impossible, until the departure of this vessel has taken place, to state the exact number of Females who may embark in her, I am directed by Mr. Secretary Rice to request that you will cause to be paid to Mr. William Fairlie Gilmore the Sum of £6 for every Female whose name is inserted in the enclosed list; and that you will also pay into the Military Chest £6 for each Emigrant; which will be the amount of that portion of the Bounty of £12, which has been paid by the Treasury on account of these Females in this Country.

Bounties for
immigrants.

I am, &c.,
R. W. HAY.

[Enclosure.]

[This was a list of the names and ages of the emigrants.]

1834.
7 July.

UNDER SECRETARY LEFEVRE TO GOVERNOR BOURKE.
(Despatch per ship George Hibbert.)

Sir,

Downing Street, 7th July, 1834.

Requisition
for fire engines.

Details required
with future
requisitions.

The Colonial Agent having submitted for the sanction of the Secretary of State the Requisition made to him in Mr. McLeay's letter of the 10th December last for two Fire Engines, I am directed by Mr. Secretary Spring Rice to call your attention to the absence of all information as to the service for which these Engines are required, and to observe that, although directions have in this instance been given to Mr. Barnard to comply with the Requisition, Mr. Spring Rice will feel himself under the necessity of declining, hereafter, to sanction the provision of any Articles for the service of your Government, unless the Requisitions for them are accompanied by full and sufficient information to enable him to judge of the propriety of their being supplied at the Public Expense.

I am, &c.,

JOHN LEFEVRE.

RIGHT HON. T. SPRING RICE TO GOVERNOR BOURKE.

(Despatch No. 10, per ship George Hibbert; acknowledged by Governor Bourke, 7th December, 1834.)

8 July.

Sir,

Downing Street, 8th July, 1834.

Request by
T. Macdonnell
for appointment
as British
resident in
New Zealand.

Mr. Thomas Macdonnell, a Lieutenant of the Royal Navy, who has been residing for some time past in New Zealand upon Property acquired by him there, has represented to me the advantages, which would result to him personally as well as to other Europeans who have settled in the same District, by his being invested with a corresponding appointment to that lately conferred upon Mr. James Busby as British Resident, the extreme distance of the latter Gentleman from the Quarter in which Mr. Macdonnell and many of the other European Settlers reside preventing Mr. Busby from rendering them that assistance, which he might otherwise be expected to afford, and which has been already so sensibly felt by those persons, who have established themselves in his immediate neighbourhood.

Appointment
to be conferred.

Under these circumstances, I am disposed to assent to Mr. Macdonnell's application to be appointed an additional British Resident at New Zealand; and you will, therefore, in case you perceive no sufficient objection to such an arrangement, take the necessary steps for conferring upon him, without further reference to this Department, an appointment of the nature of that which he has solicited, providing against the possibility of any

collision between the two officers by making his appointment subordinate to that held by Mr. Busby, with whom you will instruct him to correspond upon every opportunity which may offer upon matters of local interest, in Connexion with his own Establishment there and with those of the British Settlers in general, and by whose Instructions he will invariably be guided.

1834.
8 July.

T. Macdonnell
to be
subordinate
to J. Busby.

Mr. Macdonnell has disclaimed all desire of emolument in soliciting the appointment above mentioned, and has been distinctly informed, as you will also impress upon him, that it is not to lead either now or hereafter to any claim on his part for a Salary or other remuneration for any services, which he may be called upon to perform in the discharge of the duties of the office which he has undertaken.

Appointment
to be honorary.

Mr. Macdonnell will have the honor of delivering this letter to you on his return to New Zealand, a copy of which you will forward to Mr. Busby to prevent all misunderstanding on the part of that Gentleman in respect to the nature and extent of the authority, with which Mr. Macdonnell is to be invested.

Transmission
of letter.

I am, &c.,
T. SPRING RICE.

GOVERNOR BOURKE TO RIGHT HON. E. G. STANLEY.

(Despatch No. 61, per ship James Harris; acknowledged by the earl of Aberdeen, 13th February, 1835.)

Sir, Government House, 8 July, 1834.

I have the honor to transmit printed Copies of the Estimates for 1835, and a supplementary Estimate for the present year, which have lately passed the Council. The several items have been agreed to and voted in the form of Resolutions,* from which the appropriation Act will be framed and forwarded in conformity to Instructions. As some days however must necessarily elapse before the Act will be ready for transmission, I avail myself of the opportunity that now offers for forwarding the Estimates, which will furnish the same information as the Act. With the Estimates, I send a printed Copy of the Minute I laid before Council on presenting them. It contains some explanation of several of the items of expenditure and the views of the Government in proposing them, as well as a brief recital of the Ways and Means of defraying the charge. An Abstract of the Revenue appropriated by the Council for the past year and its Expenditure is also transmitted.

Transmission
of estimates.

Explanation
of items of
expenditure.

You will perceive that the Estimates for the next are larger in amount than those for the present year. This is chiefly

* Note 115.

1834.
8 July.

Increase of
expenditure on
public works.

occasioned by an addition to two branches of expenditure, namely Public Works and the Police. I have thought it advisable to avail myself of the favorable balance in the Treasury accounts and of the presence of so many Convicts, to be worked in Irons under British and Colonial Sentences, to press forward the completion of the lines of road now executing, and the formation and improvement of Sydney Streets, for which professional Superintendence, Horses, Oxen and Carriages and Tools of all sorts are provided at the expence of the Colony. The completion of some and execution of other Public Buildings of acknowledged and paramount utility, required by the augmented wants of this rapidly increasing population, have also been provided for in the supplementary estimate, and that, for the next year, I could have wished to have proposed a much larger sum for the erection and maintenance of Schools; but, as the subject of General Education for the People of this Colony has been brought under your notice in my despatch of the 30th September last, No. 76, I thought it proper to defer any proposition for unusual expense under that head, until I should be honored with your commands.

Increased
vote for police.

I thought it right to claim from the Colonial Funds some greater aid than usual towards the maintenance of the Police, for reasons which I stated at the opening of the present sitting of the Council in the address* of which I have the honor to transmit a printed Copy. I proposed further a sum in aid of the expence of building a permanent Gaol at Berrima† for the service of the Southern District of this Colony, an establishment which could no longer be delayed consistently with a due regard for the efficient and I may add economical administration of the Laws. This Gaol has been contracted for at an expence of £5,300, for which service £2,000 have been now appropriated by the Council, the balance remaining to be paid from the Military Chest, from which all expenditure for Gaols has been hitherto defrayed as forming part of the Convict Service. The proposed Building being of a permanent nature and vastly superior to any hitherto erected in the Colony, I thought it right to place some part of the expence on the Colonial Funds. Upon this subject, I had the honor to address the Secretary of State in my despatch of the 5th February, 1833, No. 19, to which I have not yet had a reply.

Sum
appropriated
for erection of
gaol at Berrima.

Expenditure
on court of
claims.

The charge for Commissioners to determine claims to grants of Land being now for the first time presented, I beg to call to your recollection my despatch of the 26 November last, No. 89, in which is represented the necessity for appointing Commissioners by a Legislative Enactment. The expence, as I have there stated, will be chiefly borne by the claimants from whom Fees to the amount of £1,000 have already been raised. The number of

* Note 115.

† Note 116.

claims has greatly exceeded expectation; and, as many are of a simple description and easily disposed of by Persons of legal knowledge, the Act* of last year is about to be amended by reducing the Fees to the Commissioners and to the Claimants. The necessity, however, for such an Act has been made quite apparent by its operation, the period of which it may hereafter be necessary to extend in order to dispose of claims, which were not brought forward within the time specified in the Act.

1834.
8 July.

Act for
reduction of
fees.

The proposed charge for a Civil Engineer may perhaps require some further explanation than is afforded in the Minute. It may be imagined that the Surveyor General should discharge the duties of a Civil Engineer. Those duties are, however, of a very different description from the services required of a Surveyor, and demand a much more varied knowledge and extensive course of Instruction. The principal Works, upon which the skill of a professed Civil Engineer would require to be exercised in this Colony, are the construction of a large Circular Wharf round the Head and the Eastern Margin of Sydney Cove, The latter part of this Work being required in connection with the improvement proposed in my despatch of the 2nd November, 1832, No. 113; The completion of a Breakwater at New Castle; the formation of Boat Harbours along the Coast; and possibly the supply of Water to Sydney, should any difficulty arise in completing with success the undertaking of Mr. Busby.

Proposed
charge for
civil engineer.

Works to be
supervised by
engineer.

With respect to the Ways and Means, I need only observe here, in addition to the explanation contained in the Minute, that the Sum of £4,795 15s. 3¼d. is the unexpended residue of the Sum of £10,000 appropriated in 1832 to bringing out Emigrants from England. The Land Revenues for that year were appropriated by Council, and the charge for bringing out Emigrants was consequently placed on the Estimates. Those Revenues have not been placed at the disposal of the Council in the two subsequent years, in conformity to Instructions to this effect contained in the Circular despatch of Lord Viscount Goderich of the 4th March, 1832. The Land Revenues have since 1832 been kept apart and charged with the expences of Emigration. I transmit herewith an Account shewing the Receipts and Expenditure of these Revenues for the year 1833.

Balance of
land revenues
available for
immigration.

I have, &c.,

RICHD. BOURKE.

[Enclosures.]

[These were printed copies† of the estimates for 1835; of the minute by Governor Bourke; of the abstract of revenue and its appropriation for 1833; and of the votes and proceedings of the legislative council for 30th May, 1834.]

* Note 117.

* Note 115.

1834.
9 July.

RIGHT HON. T. SPRING RICE TO GOVERNOR BOURKE.

(Despatch No. 11, per ship George Hibbert.)

Sir,

Downing Street, 9th July, 1834.

Despatch
acknowledged.

I have received your despatch No. 87 of the 1 of Novr. last, enclosing a letter from Chief Justice Forbes on the subject of his Official Residence for which the payment of Rent has been required in conformity with the instructions of Lord Goderich, conveyed to you in his despatch of the 29 of Sepr., 1831. The grounds upon which Mr. Forbes has appealed against this decision are twofold; First, that, upon his acceptance of his office, an Official Residence was distinctly promised in addition to his fixed salary of £2,000 per annum; and Secondly, that such an indulgence was secured and confirmed to him by the express Provisions of the Charter, the sixth Clause of which, after stating that the salary assigned to him "shall be in lieu of all Fees of Office, Perquisites, Emoluments and advantages whatsoever, and that no Fee of Office, Perquisite, Emolument or advantage whatsoever, other than and except the said Salary, shall be accepted, received or taken by such Chief Justice in any manner or on any account or pretence whatever," concludes as follows:—"Provided nevertheless, that it shall be lawful for the said Chief Justice to occupy and inhabit any official House or Residence within the said Colony of New South Wales, which hath been or may hereafter be provided for his Residence or occupation, without paying to Us, Our Heirs and Successors, any Rent for the same, and without being obliged to repair, uphold, or maintain any such House or Official Residence at his own Costs and Charges."

Appeal by
F. Forbes
against
payment of
rent for official
residence.

No record
of agreement
re official
residence.

In regard to the first Plea urged by Mr. Forbes for an exception in his special case from the Rule laid down by Lord Goderich for discontinuing the indulgence of official Residences to Public Officers, I have to observe that no record is to be found in this Department of any promise having been made to Mr. Forbes, at the time of his appointment, that a House would be permanently assigned to him as Chief Justice, nor have I been able to discover any proof that he received that indulgence as stated in his letter "in lieu of a larger Salary," although it is by no means improbable that Mr. Forbes may have thus understood the permission which was given to him, as in the case of the Colonial Secretary, of occupying an Official Residence.

In regard to that particular Clause of the Charter, which forms the second ground of Mr. Forbes's claim, I have to state that it does not in my opinion bear the interpretation, which the Chief

Justice has given to it, the clause in question appearing to me to express nothing more than a permission to the Chief Justice to enjoy such an advantage if circumstances permitted the Colonial Government to bestow it him without rendering him liable to any supposed infringement of the condition on which his salary of £2,000 was fixed, that of not "accepting, receiving or taking, in any manner or on any account or pretence whatever, any fee of office, Perquisite, Emolument or advantage whatsoever, other than and except the said Salary."

1834.
9 July.

Interpretation
of clause in
charter of
justice.

With this view of the subject, I regret that, whilst applying the Rule to the Colonial Secretary, I cannot absolve Mr. Forbes either from the necessity of providing himself with another residence or of paying a fair annual Rent for the Public Building which he now occupies as such. You will acquaint him, however, that I do not consider his request unreasonable to be allowed a convenient piece of ground, on which to build a suitable residence and to be permitted to continue in his present abode until such residence shall have been completed; but, in meeting so far his views, it must be understood that he is not to be permitted to retain the Building, now occupied by him, for a longer period than one twelvemonth, from the date at which you may receive this Despatch, excepting upon the condition before stated.

Decision
re official
residence of
F. Forbes.

I am, &c.,
T. SPRING RICE.

GOVERNOR BOURKE TO RIGHT HON. E. G. STANLEY.
(Despatch No. 63, per ship James Harris.)

Sir, Government House, 10th July, 1834. 10 July.

I have the honor to acquaint you that, having received a communication from The Secretary to the General Commanding in Chief informing me that His Majesty's Government had resolved to encrease the force in this Command, in consequence of my representation to the General Commanding of the 27th June, 1833. and authorizing me in consequence to detain the 17th Regiment until further Orders, I have replied to that communication by the letter of which I transmit a Copy.* I am very anxious to bring under your particular attention the representation,* which I have thought it my duty to make with regard to the detachments at Swan River, by the continued absence of which much of the good which the augmentation seems to promise to the Colony will be frustrated.

Increase of
military force.

Detachments
at Swan river.

I have, &c.,
RICHD. BOURKE.

* Note 118.

1834.
11 July.

RIGHT HON. T. SPRING RICE TO GOVERNOR BOURKE.
(Despatch No. 12, per ship George Hibbert.)

Sir, Downing Street, 11th July, 1834.

Denial of
promise of
assignment of
convicts to
their wives.

Having referred to the Home Department your Despatch No. 2 of the 20th January last, respecting the Wives of Convicts, who have proceeded to New South Wales with the expectation that their Husbands would be assigned to them, I have the honor to enclose a copy of a letter from Mr. Phillipps in answer, by which you will perceive that there is no truth in the statements, which have been made to you by the Women in question, of such expectation having been held out to them at that Office.

I am, &c.,

[Enclosure.] T. SPRING RICE.

MR. S. M. PHILLIPPS TO UNDER SECRETARY LEFEVRE.

Sir, Whitehall, 3 July, 1834.

I have laid before Viscount Melbourne your letter of the 1st Instant with its enclosed copy of a dispatch from Governor Bourke, representing that several women with families had lately proceeded to New South Wales, at the same time or soon after the arrival of their husbands under Sentence of Transportation, asserting that they had been informed by Mr. Capper of this Department that, on their arrival, their husbands would be assigned to them.

Papers given
to wives of
convicts.

In reply, I am to acquaint you for the information of Mr. Secretary Spring Rice, that no such expectation has ever been held out to any Females, who have made application at this office upon the subject, they having been invariably furnished with the printed paper of which the enclosed marked No. 1 is a Copy. The Enclosure No. 2 is a Copy of the communication made to Wives of Convicts, who are recommended for Free Passages to Australia.

I am, &c.,

S. M. PHILLIPPS.

[Sub-enclosure No. 1.]

Whitehall,

Form of letter
to applications
from wives of
convicts.

I AM directed to acknowledge the Receipt of your of the and to inform you in reply that, in consequence of a Representation from the Governors of New South Wales and Van Diemen's Land, that the Wives and Families of Convicts were frequently on their Arrival there left entirely at the Expence of the Government of those Colonies from the Inability of the Convicts to support them, it has been found necessary to adopt a Regulation that no Wives of Convicts be allowed to join their Husbands in New South Wales and Van Diemen's Land, unless a Recommendation and Certificate has been transmitted to this Country by the Governors of those Colonies, certifying that such Convicts have the Means of supporting their Wives and Families in the Event of their being sent out, and that they are in other respects deserving of such an Indulgence. This Regulation is strictly adhered to in all Cases; and until it has been fulfilled (of which due Notice will be given) your Request cannot be complied with.

I am,

Your most obedient humble Servant,

[Sub-enclosure No. 2.]

1834.
11 July.

Secretary of State's Office,
Home Department, Whitehall,

of
 having received from the Governor a Recommendation for granting Mrs. Permission to join her Husband in that Colony. Notice sent *re* proposed free passages to wives of convicts.
 desires that she will inform , the Under Secretary of State for the Home Department, as soon as possible, whether she is disposed to accept this Indulgence; and also to state the Names and Ages of her Children, whom she is desirous of accompanying her to , in order that Arrangements may be made for the Accommodation of herself and such of her Children as may feel disposed to grant Permission to proceed to that Colony, in a Vessel which will be fitted for that Purpose in a short Time; but she is not to consider the Indulgence as granted until she receives a further Communication from this Office; and she must distinctly understand that, if, on her Arrival in the Colony, her Husband should not be eligible, from good Conduct and Length of Service, to receive the Indulgence of a Ticket of Leave, she must make up her Mind to live with the Person to whom her Husband is assigned, or otherwise obtain her Livelihood, until the proper Period for Indulgence arrives.

Boys whose Ages exceed 10 Years cannot be allowed to accompany their Mothers.

GOVERNOR BOURKE TO RIGHT HON. E. G. STANLEY.

(Despatch No. 65, per ship James Harris; acknowledged by earl of Aberdeen, 27th September, 1834.)

Sir, Government House, 12th July, 1834. 12 July.

I have the honor to forward a letter from Mr. Robert Campbell, Junr., a Merchant long established in Sydney, soliciting on the grounds therein set forth a Grant of Land for which he applied before the present Regulations came into force, copies of his applications to Sir Thomas Brisbane to which he states that a change of administration prevented attention and of a reply to an application received by him during the Government of General Darling are appended to the letter.

It may be necessary to state in addition, to enable you to form an opinion on the claim thus brought forward, that, when Mr. Campbell repeated his application in 1827, his case was referred to the Land Board, who reported in favor of his receiving 1,172 acres of Land, being the quantity necessary to complete, together with 788 before received by him, the maximum grant of 2,560 Acres. Governor Darling, however, decided that he should only be permitted to Rent under the 16 Section of the Regulations,* and he was informed accordingly. A Copy of that Section of the Regulations accompanies this despatch. It would seem that, to have availed himself of its terms, Mr. R. Campbell should

Decision on former application.

* Note 119.

1834.
12 July.

have selected the land, which he was desirous of occupying, and have applied for permission to enter upon it, until the pleasure of His Majesty should be made known. This was not done, nor has any further step been taken by Mr. Campbell in the matter until the present time.

There was undoubtedly a very vague understanding of the regulation under which General Darling allowed Mr. Campbell to Rent, and Mr. Campbell might probably have considered the reply of the Colonial Secretary as only a polite refusal. But, even in this view of the case, it is evident that, if such a refusal be now considered subject to revision, a most inconvenient opening will be afforded to all Persons, dissatisfied with the decision of former administrations, to revive innumerable claims, the fair adjudication of which would at this distance of time be impossible.

I have, &c.,

RICHD. BOURKE.

[Enclosure.]

[A copy of this letter is not available.]

GOVERNOR BOURKE TO RIGHT HON. E. G. STANLEY.

(Despatch No. 66, per ship James Harris; acknowledged by earl of Aberdeen, 27th December, 1834.)

13 July.

Sir,

Government House, 13 July, 1834.

Transmission
of affidavit
and letter from
R. Dacre.

Referring to a letter from Mr. Hay, dated 16th July, 1832, transmitted through this government to Mr. Ranulph Dacre, in reply to an application by him for a Grant of Land under the regulations which subsisted before 1831, and in which he is informed that, on his making an Affidavit to the effect therein set forth, his request would be acceded to; I have the honor to transmit an Affidavit made by that Gentleman, together with a letter from him in which he states his reasons for contending that such Affidavit is written in the spirit and intention though not according to the letter of Mr. Hay's communication.

Conditions for
land grants
under old
regulations.

Mr. Hay states "that Lord Goderich felt himself obliged to refuse all applications for Land on the old terms, since the publication of the new regulation, unless the applicant had received a positive promise and had actually and *bona fide* made all their arrangements by the disposal of their property or the abandonment of any trade or profession in this Country (England) for the purpose of proceeding to the Colony, before they became acquainted with the new Regulations, and that they were then too far committed to be enabled to abandon the undertaking."

It appears from Mr. Dacre's affidavit that, though he disposed of property, abandoned his occupation of Master of a Vessel, and

obtained advances of money from his friends, which he would not otherwise have received on the faith of the old regulations, he had left England some time before, and that therefore these arrangements were not made "for the purpose of proceeding to The Colony," one of the conditions imposed by Mr. Hay's letter. I have not therefore felt myself authorized to make him the Grant he solicits, but have consented to forward his affidavit for your consideration and commands.

I have, &c.,

RICHD. BOURKE.

[Enclosure.]

[Copies of the affidavit and letter are not available.]

GOVERNOR BOURKE TO RIGHT HON. E. G. STANLEY.

(Despatch No. 67, per ship James Harris.)

Sir,

Government House, 14th July, 1834.

14 July.

In my despatch of the 8th Instant, No. 61, I informed you that the Legislative Council had appropriated the sum of £1,000 for the year 1835 to provide the services of a Civil Engineer. I now beg leave to state some of the duties, which this officer will have to discharge, and to solicit your selection of a person competent to the task.

Sum appropriated for civil engineer.

Many works of an important character have been lately projected, but which it has been impossible to execute in consequence of there being no person in the Colony, competent to give the necessary plans and specifications for their execution, or sufficiently acquainted with the nature of Tides and the effects which might arise from the construction of Quay and Breakwaters upon the depth of Water in the channels of communication to render it safe or expedient to undertake works of this nature. It was therefore with this view that I proposed to accelerate the acquisition of a Competent Engineer by offering a Salary for a period of five years certain. The expence of the first year has been estimated at £1,000; but it is imagined that a Salary of £800, with a daily allowance for travelling when ordered on duty, will be sufficient to induce an Engineer of some reputation to accept the office. I would particularly impress upon your attention the importance of obtaining a Person adequately qualified to perform the duties that will be required of him; and, if it should be found that the sum now proposed is insufficient for that purpose, it will be better to await a further vote from the Legislative Council in aid of this very desirable object than to engage a Person not of acknowledged talents and experience. I would take the liberty of suggesting that application

Necessity for engineer to construct quays and breakwaters.

Salary proposed.

Selection of engineer.

1834.
13 July.
Non-compliance with conditions by R. Dacre.

1834.
14 July.

Proposed
conditions of
engagement.

should be made to Mr. George Rennie and Mr. Telford, upon whose recommendation it is not doubted a competent individual may be selected. In any engagement which may be made, it should be expressly stipulated that the party will not be allowed to undertake any private business, but that his undivided attention will be required to such works as may be directed by this Government. Although it is proposed that this Officer should be engaged for the period of five years, he should be distinctly made to understand that he will be subject to the same rules as other Civil Officers, and liable to suspension if from any cause on his part his continuance in employment should no longer be desirable.

Proposed works
requiring
supervision
by engineer.

In order that a tolerably correct judgement may be formed of the qualifications, which the Civil Engineer to be employed in this Colony should possess, it may be expedient to state that the Works, which I have had more particularly in view in proposing this appointment, are the Breakwater at New Castle to connect Nobby's Island with the Main, which has been in progress for some years; The erection of a Circular Quay at the Head of Sydney Cove for the convenience of Shipping, and connected with a Plan for preventing the further filling up of the Cove by the Deposit of Silt from the Public drains, which has been felt as a very serious inconvenience for several years, and which, without some effectual remedy, threatens at no distant period seriously to interrupt the navigation of the Cove and to injure the healthiness of that part of the Town of Sydney, situated upon its banks, by the unwholesome effluvia which proceeds at low Water from the mud thus deposited. A Committee of the Legislative Council was appointed during the last Session to investigate this subject, and I have the honor to enclose herewith a Copy of their Report* and of the Minutes of evidence taken before them, from which it will appear that much variety of opinion exists as to the means of removing the evils complained of; and it is therefore the more desirable that a Person of extensive and practical acquaintance with works of this nature should be engaged to superintend its execution.

Inquiry by
legislative
council *re*
Sydney cove.

Contract for
clearing flats
in Parramatta
river.

A Contract was entered into during the present year for clearing the flats of the Parramatta River, in order to open the navigation at all times of tide for vessels and Steam boats. One of the latter has already been established† between that Town and Sydney, and another is in progress for the same line; but difficulty has been experienced in ascertaining whether, if once cleared, the effect of the Tides and Currents would not again fill up the channel and render a further and constant expence necessary to keep it open; the attention of the Civil Engineer

* Note 120.

† Note 121.

would be particularly required to this work and to a proposed improvement of the Boat Harbour at Wollongong, by which the produce of the exceedingly fertile District of Illawarra, hemmed in by almost inaccessible Mountains, would be rendered more readily available to the Inhabitants of the other parts of the Colony, as also the construction of other Boat Harbours along the Coast.

1834.
14 July.

Boat harbours required.

It has also been proposed to connect the Waters of the River Hawkesbury near Windsor with those of the Parramatta River by a Canal from the latter to the Navigable part of Eastern Creek, which it is imagined may be effected with no great difficulty, the distance being only a few miles and the levels as far as has been ascertained exceedingly favorable. By these means, the arable Districts of the Hawkesbury would be opened to inland Navigation, and the present very circuitous passage by sea avoided. It would be desirable therefore that the person to be appointed should be acquainted with the formation of Canals and the construction of Locks and other works connected with this branch of Civil Engineering. As some of the proposed Quays will be required to be erected in deep Water, the Engineer should be acquainted with the use of the diving Bell and the construction of masonry by that means. He should also be qualified generally to undertake the construction of Stone, Brick or Wooden Bridges, and to direct the repair of such machinery as may be used in carrying on the works, which he will be required to Superintend.

Canal proposed between Hawkesbury and Parramatta rivers.

Qualifications required by engineer.

I have deemed it necessary thus fully to enter into a detail of the various qualifications, which will be required in the Civil Engineer, in order that a Person of extensive practical knowledge may be selected, and under whose superintendence it is hoped many highly useful works may be completed and a saving effected to the Public in proportion to his ability and experience.

I have, &c.,

RICHD. BOURKE.

GOVERNOR BOURKE TO RIGHT HON. E. G. STANLEY.

(Despatch No. 68, per ship Harmony.)

Sir,

Government House, 22 July, 1834.

22 July.

Lord Viscount Goderich having been pleased by His Lordship's Despatch of the 24th December, 1832, to direct that Mr. John Stephen should be permitted to produce Evidence before the Executive Council of this Colony in disproof of the alleged identity of Jane New and Frances Dixon, and that the Council

Inquiry re identity of Jane New.

1834.
22 July.
Inquiry re
identity of
Jane New.

should take such measures as seemed to them proper for bringing the matter to a definite issue, I have the honor to transmit the minutes* of proceedings and evidence in this case, and to inform you that, upon concluding a protracted investigation, the Council are of opinion that the alleged identity has not been disproved.

I return herewith the printed pamphlet* as required by Mr. Hay.

I have, &c.,
RICHD. BOURKE.

GOVERNOR BOURKE TO RIGHT HON. E. G. STANLEY.
(Despatch No. 70, per ship Eldon.)

24 July.
Despatch
acknowledged.

Sir, Government House, 24th July, 1834.

Transmission
of annual
financial
statements.

Quarterly
returns to be
transmitted.

I have the honor to acknowledge the receipt of your despatch of the 21st November last, No. 56, requiring the transmission of Quarterly Returns and Abstracts of Revenue and Expenditure, in conformity to Instructions contained in the Circular despatch of Lord Goderich under date the 28th February, 1832. I beg leave to state in reply that, in obedience to the commands of Lord Goderich, I directed the Auditor General of this Colony, in the Month of October, 1832, to prepare an *Annual Return* of the description required by his Lordship's Circular, which being accordingly done, that containing the Colonial Accounts for the year 1832 was forwarded from hence on the 8th April, 1833, and I have now the honor to transmit a Return prepared in a similar manner for the last year. I directed the Return to be prepared *Annually* in attention to that part of the Circular despatch, which states that, in Colonies having Colonial Legislatures, wherein the accounts are usually made up at the end of the year, it may be sufficient if they are transmitted annually as soon as possible after the termination of the year. In compliance with the terms of your despatch to which I have now the honor to reply, I have directed the Colonial Treasurer to make up the Quarterly Returns for the years 1832 and 1833, and for the Quarterly Period of the current year with all convenient speed, and will transmit them when prepared. In the mean time, I have thought it proper to forward the Annual Return for 1833, which was ready for transmission; it is accompanied by an explanatory letter from the Auditor General (24th June, 1834). I will give to this Officer the Instructions required in the last paragraph of your despatch. I further beg leave to transmit a letter from the Auditor General (27 June, 1834) in which he states the care he has taken to prepare the Annual

Return in a manner calculated to meet the wishes of Lord Goderich, as expressed in the Circular of the 28th February, 1832; when I gave to this Officer the duty of preparing this Return, I considered that it could be best made up in his Office.

1834.
24 July.

I have, &c.,

[Enclosure No. 1.] RICHD. BOURKE.

[*These returns* have been omitted.*]

[Enclosure No. 2.]

MR. W. LITHGOW TO COLONIAL SECRETARY MACLEAY.

Sir, Audit Office, Sydney, 24th June, 1834.

With reference to my Letter No. 46 of the 9th May last, I do myself the honor of herewith transmitting an amended Abstract of the Revenue of the Colony for the year 1833, and of its appropriation, for the same year, so far as the same had been authorised up to the 31st March last.

Abstract of
revenue and its
appropriation.

This Abstract has been prepared in the same Form as that for the year 1832, transmitted with my letter No. 41 of the 30th March, 1833, for the purpose of being forwarded to the Right Honble. the Lords Commissioners of H.M.'s Treasury in pursuance of the Instructions contained in your Letter No. 512 of the 24th October, 1832.

It may be proper to remark that the Expenses under the Divisions of "Supplementary Establishment" and "Unfixed Contingencies" are classed in the same manner as they were originally entered in the Colonial Treasurer's Accounts, in conformity with the Treasury Instructions, dated 13th June, 1826. The Secretary of State having, however, as notified in your Letter, dated 29th June, 1833, signified his approval of the several Items of the "Fixed Establishment" and Contingent Charges, for which Funds were appropriated by the Legislative Council for that year, a great proportion of the same description of Expenses, as those classed in the Abstract under "Supplementary Establishment" and "Unfixed Contingencies," are now accounted for agreeably to the said Instructions under the Divisions of "Fixed" establishment and "Fixed Contingencies."

Classification of
supplementary
and contingent
expenses.

I have, &c.,

WM. LITHGOW, Audr. Genl.

[Enclosure No. 3.]

MR. W. LITHGOW TO COLONIAL SECRETARY MACLEAY.

Sir, Audit Office, Sydney, 27th June, 1834.

I have the honor to acknowledge the receipt of your letter No. 184 of the 26th Inst., requesting me to explain the reasons of my noncompliance with the Instructions contained in your Letter of the 24th October, 1832, which enclosed Lord Goderich's Circular Letter of the 28th February of the same year.

Preparation of
abstracts of
revenue and
expenditure.

In reply, I have the honor of submitting that, by your Letter alluded to, I was requested to prepare the Report required for New South Wales by the said Circular, to be transmitted *Annually* to England; and, in pursuance thereof, I prepared and forwarded with my Letter No. 41 of the 30th March, 1833, an Abstract of the Revenue, Receipts and Disbursements of the Colony for the year 1832, so far as the Accounts and Documents, which fall under the revision of this Office afforded the means.

1834.
24 July.

Preparation of
abstracts of
revenue and
expenditure.

In originally preparing this Document, the most anxious care was taken to meet the Views indicated in His Lordship's Circular, and to devise and adopt that Form of Abstract, which was most likely to exhibit the Receipts and Expenditure in a perspicuous and satisfactory manner; By desire of His Excellency the Governor, a Duplicate of the Abstract was furnished a short time after the original had been transmitted.

With my Letter No. 46 of the 9th May last, I forwarded an Abstract of the Revenue of the Colony and of its appropriation for the year 1833; but, as I was subsequently led to conclude that the Form of this Abstract was not so well adapted to furnish the information required by Lord Goderich's Circular, as the one for the previous year, it was prepared anew under the same Form as that last mentioned, and transmitted in my Letter of the 24th Instant.

By the transmission of these Documents, I trust His Excellency the Governor will be of opinion that I have complied with the Instructions contained in your Letter of the 24th October, 1832, so far as relates to the Revenue and Expenditure of the Colony for the years 1832 and 1833, which did not require the Reports to be furnished oftener than annually; for, as to the Quarterly Returns, mentioned in the Copy of the Letter which accompanied Lord Goderich's Despatch, it was inferred from the concluding Paragraph that, in Colonies having like this Colonial Legislatures, where the Financial Returns are made up Annually, the transmission of Quarterly Returns would be dispensed with.

I shall, however of course, be most anxious to effect any modification which His Excellency may be pleased to signify his wish should in future be adopted either in respect of the Forms or Periods of the Documents referred to.

I have, &c.,

WM. LITHGOW, Audr. Genl.

RIGHT HON. T. SPRING RICE TO GOVERNOR BOURKE.

(Despatch No. 13, per ship Hoogley.)

25 July.

Despatch
acknowledged.

Sir,

Downing Street, 25th July, 1834.

I have to acknowledge the receipt of your Despatch No. 39 of the 1st May, 1833, enclosing a Resolution of the Legislative Council of New South Wales relative to the expediency of repealing the Duties on Spirits distilled from the Produce of the Colony.

Proposed repeal
of duties on
spirits distilled
in colony.

The great importance of the subject submitted for consideration in your Despatch, not only as regards the Revenue of New South Wales, but more particularly with reference to the moral habits of the Community, has called for the most careful consideration of His Majesty's Government; and, although it does not appear, so far as the Revenue is concerned, that any immediate alteration in the Colonial Laws relating to Duties on Spirits is called for, it would seem advisable that you should be apprised of the views entertained by Them for your guidance, as necessity for modifying those Laws may arise.

It is conceived that, in the present state of New South Wales, or under any circumstances in which its Population are likely to be placed for some years to come, the attempt to enforce any Regulation against private distillation in the Country Districts, and more particularly against distillation from Grain or other Local Produce, must prove abortive, and that the existence of such Regulations would unavoidably tend to demoralize the Settlers by accustoming them to habitual infractions of the Law. It is, therefore, highly desirable that any measure, which may prevent the evils likely to arise from this state of things, should be adopted, even at the hazard of some diminution of the Revenue.

On these grounds, His Majesty's Government are of opinion that the proposition of the Legislative Council for the repeal of the Duties, charged on Spirits distilled from Grain or other Produce of the Colony, should be assented to. So far as Distillation from Grain or other Local Produce has hitherto been carried on in the Colony, it does not appear that it has been practicable effectually to collect the Duty the Law has imposed, and the Revenue will consequently sustain little if any loss from its repeal. But the probability that, if Distillation of Spirits from Produce of the Colony is thus generally legalised, the parties having Stills will also, as you suggest, distil from imported Sugar and evade the payment of the Duty on Spirits so obtained, cannot but be contemplated; although it would appear that very little more facility will exist for this practice in the Country Districts than at present, as it seems to be admitted that the use of private Stills in those Districts is almost entirely unrestrained.

If such fraudulent distillation from Sugar does take place to considerable extent, it will obviously not only put a stop to legal distillation from the same Article upon payment of the Duty, and further injure the Revenue by diminishing the consumption of Imported Spirits, but it will also still foster the habitual disregard and infraction of the Law, which, as I have before remarked, it is a paramount object to remedy and prevent. Should these results attend the repeal of the Duty on Spirits distilled from Colonial Produce, and further modifications of the Laws relating to this subject be found necessary, His Majesty's Government would be inclined to sanction the repeal of all Duties on Spirits distilled in the Colony, and the imposition of a Duty on Sugar imported, both to discourage its use in the Distilleries, and to make good the defalcation of the Revenue, which that use might occasion.

But, adverting to the situation of New South Wales, and to the little danger of any general or extensive illicit importation of Spirits from Great Britain or the other British Colonies, from

1834.
25 July.

Inability to prevent private distillation in colony.

Approval of repeal of duties on spirits distilled in colony from local produce.

Result of fraudulent distillation from sugar.

Authority for repeal of duties on all spirits distilled in colony.

1834.
25 July.

Problems
re duties on
imported
spirits.

whence the great demand of the Settlement is at present supplied, His Majesty's Government conceive that the Duties on these Spirits may be considered solely with reference to the question of Revenue; and they would therefore abstain from authorising any reduction of these Duties, excepting it were found that any Duty, that could be imposed on Sugar, was ineffectual in checking its use in the Distilleries, or unless there were good grounds for presuming that the reduction of Duty, by holding out inducement for increased consumption of imported Spirits, as compared with Spirits made in the Colony, would be productive of increased Revenue from this source at the same time that such reduction of Duty on imported Spirits might operate as a check on the Distillation of Sugar.

Instructions
re prospective
duty on sugar.

If, however, the necessity for imposing a Duty on Sugar, on the grounds already adverted to, should arise, and the imposition of that Duty, in conjunction with the present Rates of Duty on imported Spirits, should occasion an increase of the Colonial Revenue, His Majesty's Government would be fully prepared to sanction a remission of other Taxes to an amount equivalent to any increase the Revenue might derive from the Duties laid on Sugar, for it is not their object in suggesting these measures to impose any additional burthen on the Colonists.

I am, &c.,

T. SPRING RICE.

GOVERNOR BOURKE TO RIGHT HON. E. G. STANLEY.
(Despatch No. 72, per ship Eldon; acknowledged by
earl of Aberdeen, 29th December, 1834.)

29 July.

Services of
K. Snodgrass.

Sir,

Government House, 29 July, 1834.

I have the honor to transmit a letter from Lieut. Colonel Snodgrass, who has been employed for some years on the Military Staff of this Colony, and has in this capacity discharged the duties of the Colonial employments* which he enumerates. These duties he has discharged with great zeal and ability but without any remuneration. His wishes pointed towards obtaining a grant of Land, in which he has been disappointed. He was indeed offered a remission in the purchase money of Land, but to so small an amount (£50) as to render the gracious intention of the Government of no practical use. As Lieut. Colonel Snodgrass purposes to remain in the Colony and to establish his family here, it would render him an important service and in some measure satisfy the strong claim he has on the liberality of the Government, were he to be allowed such a remission as would enable him to obtain from one to two thousand acres of Land at the present minimum price. In proposing this arrangement,

Remission
proposed on
purchase of
land.

I feel I am recommending for Lieut. Colonel Snodgrass a remuneration of much less amount than has been frequently awarded to Persons, whose services have not been equal to his, and whose character has not stood so high in the general estimation of this Community.

I have, &c.,

RICH. BOURKE.

1834.
29 July.

Remission proposed on purchase of land.

[Enclosure.]

[A copy of this letter is not available.]

RIGHT HON. T. SPRING RICE TO GOVERNOR BOURKE.

(Despatch No. 14. per ship Henry Forcher.)

Sir,

Downing Street, 1st August, 1834.

1 Aug.

I have had the honour to receive your Despatch No. 4 of the 21st Jany. last, reporting upon the conduct and character of the female Emigrants who were sent to New South Wales in the Ship "Layton."

Despatch acknowledged.

I directed a Copy of that Despatch to be sent to the Committee, by whom the young Women who sailed in that Ship were selected, with a request that they would favour me with any observations that might occur to them upon a perusal of it.

Reference of complaint re misconduct of female immigrants.

They have accordingly transmitted to this Depart. the Report, a copy of which is enclosed, which has afforded me much satisfaction; and I can only express my hopes that the care and anxiety, which they have evinced in furthering the objects of His Majesty's Government, may be fully appreciated; and that their expectations respecting the future conduct of those, as well as of any other Females whom they may be instrumental in sending to the Australian Colonies, may be fully realized.

I have, &c.,

T. SPRING RICE.

[Enclosure.]

MR. E. FORSTER TO UNDER SECRETARY HAY.

Sir,

I have had the honor to receive and submit to the consideration of the Committee for promoting the Emigration of Females to Australia your letter of the 5 instant, enclosing copy of a despatch from the Governor of New South Wales on the subject of the Females sent out by the "Layton."

Letter acknowledged.

It is with much regret the Committee observe that the general character of these Individuals is not reported so favorably of, as they had reason to expect; it is scarcely necessary to remark that they were selected with great care; each Individual, who proceeded by the Layton, was approved by the Committee after a Careful

Selection of female immigrants per ship Layton.

1834.
1 Aug.

Results of
incompetent
superintendent
and surgeon.

and anxious examination, and, where it appeared necessary, personal enquiries into the circumstances of the case were made so far as it was practicable.

The Committee have been greatly pained by the unfortunate differences which have taken place on board this Ship, and particularly between the superintendant and Surgeon; parties, whom the well-being of the service entrusted to them, if not a higher motive, should have kept on good terms; it is to these unhappy differences they attribute much of the evil which has occurred; such conduct on their part, the Committee could not for a moment have contemplated when they advert to the favorable testimonials which they received of the characters of both these officers. The respectability of Mr. Beelby was unreservedly certified by Ministers of the Church of England and of dissenting Denominations; but, prior to the ship's final departure on her voyage, the Committee had reason to doubt, when it was too late to alter their appointment, his fitness for the important charge with which they had entrusted him; and, to his want of temper, judgment and proper management, the Committee have reason to attribute much of that absence of subordination and good feeling on board, which has been complained of during the voyage; this led to the loss of influence and authority on his part among those confided to his care and solicitude; and he in return delivered to the Colonial Secretary on his arrival (a Copy of which the Committee have received) a list of the Females on board, in which he seems to have libelled all whom his own conduct had unfortunately caused to decry that just influence, which the sensible and proper discharge of his duties would have secured to him. With regard to Mr. Rule, the Surgeon, the Committee were still more unfortunate in their selection; they much lament the very unpleasant circumstances which the highly reprehensible conduct of this person is stated to have produced on the passage; the Committee have again investigated all the circumstances of his appointment, his testimonials of professional Competency were entirely satisfactory, and the Committee had reason, from their enquiries and personal communications with him, to repose confidence in his character; they, however, much regret that, as regards this person, they made a most unfortunate appointment; and, to the very unsatisfactory conduct of these two officers, their constant bickerings on the voyage, and the complaints consequently made on the ship's arrival at Sydney, the Committee are of opinion that the impression made on the Governor's mind is mainly to be attributed.

The conveyance of a number of free females on a long voyage is at all times a task of difficulty; and, unless those to whom the Superintendance is entrusted are worthy of entire confidence and conduct themselves with judgment and circumspection, an entirely successful result cannot be fairly anticipated. The Committee feel that this was not the case in the present instance; but they forbear to enter further into this part of the subject, and would only express their confident hope that the subsequent conduct of those Females will be such as to do justice to the exertion and care with which they were selected in this country.

Superintendence
of immigrants
per ship
David Scott.

The Committee, having been so fortunate as to obtain a Lieutenant of the Navy and his wife to superintend the Females recently despatched in the "*David Scott*," believe they have in a great degree precluded the possibility of similar painful occurrences; and,

to the selection of fit and proper persons in future to undertake this most important and responsible duty, the Committee need hardly say their anxious attention will be directed.

1834.
1 Aug.

The employment of a "Mercantile Agent" having been adverted to, and an inference drawn that his interest is at variance with the proper discharge of the duties devolved upon him, the Committee feel that it is due to Mr. Marshall to say that many females have been, from time to time, rejected thro' his exertions in discovering their true character, who otherwise would have been allowed by the Committee to have emigrated, from their inability in all cases to detect their unfitness.

Employment
of "mercantile
agent."

The Suggestion of the Governor of New South Wales for the appointment of a paid Agent is of course for the decision of the Secretary of State; nevertheless this Committee are not aware that any good could be expected to result from such a measure.

Proposed
appointment
of paid agent.

In conclusion, they beg to observe that all their subsequent intercourse with Mr. Marshall has tended to confirm the favorable opinion they originally formed of his fitness for the laborious and important work allotted to him, the extent of which can only be duly estimated by those who witness it, and to which he exclusively devotes the whole of his time; and they have no ground to believe that the duties could have been or can be performed more efficiently thro' any other agency than that of Mr. Marshall, who, they are bound to state, has hitherto discharged his arduous, delicate, and responsible trust, with integrity, intelligence and punctuality, and to their entire satisfaction.

Testimony
in favour of
J. Marshall
as agent.

I have, &c.,

EDWARD FORSTER,

Chairman of the Emigration Committee.

Mansion House Street, 24 July, 1834.

RIGHT HON. T. SPRING RICE TO GOVERNOR BOURKE.

(A circular despatch per ship Henry Porcher.)

Sir,

Downing Street, 1st August, 1834.

The House of Commons have presented a humble Address to His Majesty, praying "that His Majesty will take such measures, and give such directions to the Governors and Officers of His Majesty's Colonies, Settlements and Plantations, as shall secure to the natives the due observance of justice and the protection of their rights, promote the spread of Civilization among them, and lead them to the peaceful and voluntary reception of the Christian Religion."

Address by
house of
commons re
aborigines.

And His Majesty having been graciously pleased to accede to this Address, I feel that I cannot take more effectual means for realizing the wishes expressed by the House of Commons, and sincerely entertained by His Majesty, than by directing your attention to the principles contained in the Address adverted to.

Instructions re
policy towards
aborigines.

1834.

1 Aug.

Instructions *re*
policy towards
aborigines.

I am quite aware that these principles are not now laid down for the first time, but that they will be found to have governed the conduct of my Predecessors in this Office, and to have been embodied in such Instructions, as have been issued by this Department for the improvement of the condition of the Aboriginal Inhabitants of His Majesty's Colonies.

Entertaining the fullest confidence that, in relation to the Territories of which the Government has been entrusted by His Majesty to you, the most earnest and anxious attention will be given to the subject, I am commanded by His Majesty to assure you that your efforts in the discharge of this important and interesting duty shall be seconded by the utmost support, which you can claim from His Majesty.

I am, &c.,

T. SPRING RICE.

RIGHT HON. T. SPRING RICE TO GOVERNOR BOURKE.

(Despatch No. 15. per ship Henry Porcher.)

Sir,

Downing Street, 1st August, 1834.

Statute for
administration
of justice at
Norfolk Island.

I have the honor to acknowledge the receipt of your Despatch No. 93 of the 30th of November last, submitting for the consideration of His Majesty's Government the expediency of bringing a Bill into Parliament, constituting a Court for the Trial in Norfolk Island of crimes committed there. I now transmit, for your information, a copy of the Bill* which, in consequence of your representations, I have proposed to Parliament for the better administration of Justice in Norfolk Island; and I trust that this Bill, which will receive the Royal Assent in the course of a very few days, will tend to the repression of those capital crimes, which have been unfortunately of so frequent occurrence at that Penal Settlement, and to the Punishment of the Criminals by whom they have been committed.

I regret to add that accounts have very recently reached me through private Channels of a formidable Mutiny having broken out amongst the Prisoners there; but, in the absence of all official information on the subject, I am unable to offer any observations thereon.

I am, &c.,

T. SPRING RICE.

[Enclosure.]

[*This was a copy of the statute, 4-5 Wm. IV, cap. lxx, entitled, "An Act for the more effectual Administration of Justice at Norfolk Island."*]

RIGHT HON. T. SPRING RICE TO GOVERNOR BOURKE.
(Despatch No. 16. per ship Henry Porcher.)

1834.
2 Aug.

Sir, Downing Street, 2d August, 1834.

I have the honor to acknowledge the receipt of your despatch No. 12 of the 16 Feby. last.

Despatch
acknowledged.

I am happy to find that the resignation of the Revd. Joseph Docker has afforded you so early an opportunity of appointing the Revd. H. Styles to a Colonial Chaplaincy in pursuance of the Instructions to that effect, which were conveyed to you by Viscount Goderich at the time he held the Seals of this Department.

Appointment
of Revd.
H. T. Styles
as chaplain.

I approve of the appointment of Mr. Fisher to be Agent of the Clergy and School Estates upon a Salary of £150 per annum, with an allowance at the rate of 5 per cent. on all sums received by him, it being understood that no separate payment is to be made to him for any travelling expences, which he may incur in the execution of his duty.

Approval of
appointment
of H. Fisher.

I have further to convey to you my approval of the remuneration granted, in pursuance of the Act of the Governor and Legislative Council, 4 Geo. 4, No. 9, to the Commissioners empowered "to hear and determine upon all claims to Grants of Land under the Great Seal of the Colony"; but you will of course take the necessary steps for substituting another arrangement, if, after the expiration of a reasonable time, you shall be of opinion that the amount, received by them, is larger than the circumstances of the case require.

and of fees for
commissioners
of court of
claims.

I am, &c.,

T. SPRING RICE.

RIGHT HON. T. SPRING RICE TO GOVERNOR BOURKE.
(Despatch No. 18, per ship Henry Porcher.)

Sir, Downing Street, 4 August, 1834.

4 Aug.

I have received your Despatch No. 18 of the 1st of March last, explaining the grounds on which you had deemed it right to transmit to this Country all applications for Grants of Land in those cases in which the parties may not have been satisfied with your decision; And I beg to acquaint you in answer that the view, which you have taken of the duty imposed upon you in this particular by Lord Goderich's Dispatch of the 3d of March, 1832, meets with my full concurrence.

Approval of
transmission
of claims from
discontented
applicants for
land.

I am, &c.,

T. SPRING RICE.

1834.
20 Aug.

RIGHT HON. T. SPRING RICE TO GOVERNOR BOURKE.
(Despatch No. 21, per ship Henry Porcher.)

Sir, Downing Street, 20th Augt., 1834.

Despatch
acknowledged.

I have received your Despatch No. 86 of the 27th October last, enclosing a Memorial from the Sheriff of New South Wales, in which that Officer applies to be relieved from the payment of a sum of money recovered against him in the Supreme Court, on account of the default of one of his Bailiffs.

Refusal of
claim for
indemnity from
T. Macquoid.

Having referred your Despatch for the consideration of the Lords Commissioners of the Treasury, their Lordships have informed me that, after carefully examining Mr. Macquoid's Memorial and the several explanatory documents appended to it or submitted by yourself, and particularly the explicit statement in the letter of Mr. Justice Burton of the circumstances, under which the Sheriff became liable for the sum from which he applies to be relieved, their Lordships have decided that there is no ground whatever for acceding to that application; but that the Sheriff should be left to seek his indemnity from the Deputy by whose ignorance or neglect the liability was incurred, and against whom, it would appear, he has in fact instituted proceedings for that purpose.

T. Macquoid
to refund
advance.

Under these circumstances, I have to desire that you will call upon Mr. Macquoid to repay the money, which you authorised to be advanced to him to enable him to satisfy the Judgment against him, taking care to report to me when its recovery is effected.

As I do not propose to make any alteration, at present, in the arrangements for remunerating the Sheriff and his Officers, I shall abstain from expressing any opinion on the suggestions which you have submitted for consideration; but I beg to assure you that they will not be lost sight of, whenever it may become necessary to make a fresh appointment to the Office of Sheriff.

I have, &c.,
T. SPRING RICE.

RIGHT HON. T. SPRING RICE TO GOVERNOR BOURKE.
(A circular despatch per ship Henry Porcher.)

29 Aug.

Sir, Downing Street, 29 August, 1834.

Appointment of
Sir G. Grey as
under secretary.

I have the honor to acquaint you that I have appointed Sir George Grey, Baronet, to be my Under Secretary, in the room of Mr. John Lefevre, resigned.

I am, &c.,
T. SPRING RICE.

GOVERNOR BOURKE TO RIGHT HON. E. G. STANLEY.
 (Despatch No. 75, per ship Harmony: acknowledged by
 lord Glenelg, 10th July, 1835.)

1834.
 1 Sept.

Sir, Government House, 1st Sept., 1834.

I have the honor to transmit herewith a printed Copy of the appropriation Act* for 1835. In my Despatch of the 8th July last No. 61, with which I forwarded a Copy of the Estimates, I entered into such explanations of the several items of Expenditure as seemed to me necessary. I need not therefore on the present occasion state anything further on that subject.

Transmission of appropriation act for 1835.

I have however to request your attention to certain Protests which, upon the passing of the Appropriation act, were entered on the minutes of the council by Mr. John Blaxland. A Copy of these Protests* is transmitted. You will perceive that Mr. Blaxland objects to the rate of Salary by which the services of the Colonial Secretary, Colonial Treasurer and Archdeacon are remunerated. With respect to the first, it has been already decided by His Majesty's Government that on the next appointment of Secretary the Salary is to be reduced. With respect to the Colonial Treasurer, it is to be observed that this officer gives security to the amount of £10,000, and further that, if the business of the Collector of Internal Revenue be transferred to his office, he will have very extensive duties to discharge. I am not aware of any arrangement that can be made with the Banks, by which the expence of the Treasurer's office can be saved or diminished. Upon the subject of the Archdeacon's stipend, I took occasion to communicate my opinion, when I had the honor to address you on the affairs of the Church and School Establishments in this Colony.

Protests by J. Blaxland re salaries of colonial secretary, colonial treasurer and archdeacon;

Mr. Blaxland renews his objection to the expence of the Resident's appointment at New Zealand. This objection has been so lately replied† to by His Majesty's Government as to render any comment on the Protest unnecessary. The proposed Expenditure of £200, to which reference is made, is required for presents of provision and clothing to the New Zealand Chiefs, without which it would be hardly possible to carry on any useful intercourse with them. I beg leave to take this opportunity of transmitting a list of Ships* visiting the Bay of Islands during the year 1833. No correct account has been obtained of the Shipping frequenting other ports of New Zealand, but it is not inconsiderable.

re expence of resident in New Zealand;

There is further a Protest against the Estimate for the Survey of the Colony, which includes the measurement of lands granted or sold to Settlers. The objection, you will observe, is not made

and re estimate for survey of colony.

* Note 126.

† Note 127.

1834.
1 Sept.

Claim by
legislative
council to
appropriate
land revenues.

to the nature or amount of the charge, but to its being defrayed from those Revenues, which are appropriated under the New South Wales act by the Governor and Council.

The object of the Protest is, as I understand it, to assert the right of the Colonial Legislature to appropriate the Land Revenues. The matter has been brought into discussion at this time by the recent instruction* to pay the £750 per annum to Mr. McLeay from the droits of the Crown. Until the last year, the income derived from Crown Lands and all other sources of Revenue formed a general fund from whence the Expenditure of the Colony was defrayed. Since the receipt of the Circular Despatch of Lord Goderich of the 4th March, 1832, this practice has been discontinued, and the Income of Crown Lands has not been taken as forming any part of the ways and means of the years 1833, 1834, or 1835. Nor has its Receipts or Expenditure been published or laid before Council in the Abstract for 1833, but the expences of Emigration to this Colony under the direction of His Majesty's Government have been paid from those Revenues. I transmit an account shewing the Receipt of the Land Revenues† for the year 1833 and the first half of the present year, and the amount paid from thence during the same period. The large amount received has been caused by payments for land purchased under the Regulations of Governors Sir Thomas Brisbane and General Darling, which payments were required to be completed on the 31st March of this year. Putting these payments out of the question, the annual receipt of Land Revenue for a period comprising the next three years is not likely to average above £18,000.

Proposed
petition to
house of
commons *re*
land revenues.

I have further the honor to inform you that, a Public Meeting of the Free Inhabitants‡ having taken place on the 28th ulto., a Petition to the House of Commons upon the subject of the appropriation of the Land Revenues of the Crown raised in the Colony was resolved on. The arguments used at the meeting for placing the appropriation of those Revenues in the hands of the Colonial Legislature for Local purposes rest mainly on the same grounds as those taken by Mr. Blaxland in his Protest. The Petition will probably be numerously signed. The recent Settlement of this question in Canada has induced the Colonists to expect a similar arrangement in New South Wales. In many important respects, it would be attended with a favorable result, and I think it my duty to recommend it to the early attention of His Majesty's Government.

I have, &c.,

RICHD. BOURKE.

* Note 127.

† Note 126.

‡ Note 128.

GOVERNOR BOURKE TO UNDER SECRETARY HAY.
(Despatch per ship Harmony.)

1834.
1 Sept.

Sir, Government House, 1st September, 1834.

I have had the honor to receive your letter of the 9th Janry. last enclosing a Copy of a letter from Madame Reus, Complain- ing of delay in communicating to her the result of her application to the Secretary of State for letters of Denization and desiring to know, for the information of Mr. Stanley, the precise circumstances which occasioned it.

Despatch acknowledged.

In reply, I beg leave to state that Lord Goderich's Despatch on the subject of Madame Reus's application, dated 30 Decr., 1831 (directing me to ascertain the accuracy of her statements respecting herself and in the event of their proving correct to accede to her wishes) was received in this Colony on the 26th May, 1832. As I had no previous knowledge of Madame Reus, some time was necessarily occupied in making the enquiries directed by His Lordship. Their result proving satisfactory, the Colonial Secretary was instructed on the 7th August following to take measures to render Madame Reus a denizen of the Colony. It will appear by the enclosed Memorandum from the Colonial Secretary that the papers were handed over to the Attorney General on the following day, and the circumstances, which have interfered with the preparation of the necessary documents, are detailed in the accompanying letters from that officer. I can only add that I am not aware of Madame Reus having taken any step in this Colony to ascertain whether her wishes could be complied with, or to shew the anxiety which she now declares herself to have felt on the subject of the delay.

Report re proposed letters of denization for J. de Reus.

I have, &c.,

[Enclosures.]

RICHD. BOURKE.

[Copies of these papers are not available.]

GOVERNOR BOURKE TO RIGHT HON. E. G. STANLEY.
(Despatch No. 76, per ship Harmony.)

Sir, Government House, 2nd September, 1834.

2 Sept.

Having in my despatch of yesterday's date transmitted a Return shewing the balance of Land Revenue in the Colonial Treasury on the 1st July last amounted to £27,405 19s. 1½d., I have now the honor to inform you, with reference to the sum of £10,000 which has been already lent to the Military Chest from that fund, and to the future disposal of the balance, that I have every reason to expect very frequent applications from the Commissariat for loans to a still larger amount, when the

Expected applications for loans by commissariat.

1834.
2 Sept.

Necessity for
providing
funds for
commissariat.

export of wool shall have commenced towards the close of the year. It is from the Land Revenues of the Crown alone I can with propriety make such loans. If made from Colonial funds, the appropriation would require the advice and consent of the Legislative Council; nor can any considerable sum be diverted from the Colonial Service without inconvenience. I trust therefore that the representation,* I have found it necessary to make upon the probable deficiency in the supply of the Military Chest owing to the diminished demand for Bills on the British Treasury, will cause His Majesty's Government to adopt immediate measures for providing the necessary funds for defraying the charge of the Military and Convict Establishments of New South Wales.

I have, &c.,

—————
RICHD. BOURKE.

RIGHT HON. T. SPRING RICE TO GOVERNOR BOURKE.
(Despatch No. 23, per ship Bengal Merchant.)

3 Sept.

Transmission
of report re
premium for
J. King for
discovery of
sand.

Sir, Downing Street, 3d September, 1834.

With reference to your letter of the 3d July, 1833, reporting upon the claim of Mr. James King to be remunerated for the discovery, in the vicinity of Sydney, of a description of Sand adapted to the Manufacture of the finest Flint Glass, I have the honor to acquaint you that my Predecessor was induced, by the representations of the friends of Mr. King as to the inadequacy of the sum awarded by the Council at New South Wales, to submit the case for the consideration of the Lords Commissioners of the Treasury, with the view of deciding whether, with reference to the value of the discovery to the Mother Country, any additional Premium should be granted to Mr. King. Their Lordships have informed me that they do not conceive that the Sand has been sufficiently tried by the Manufacturers of Glass, or its alleged superiority and value as an ingredient in the manufacture of fine Glass by any means so fully established, as to warrant any conclusion that its introduction to the notice of the British Manufacturer is of such importance as to call for the award of any additional Premium to Mr. King upon this ground. I enclose you a copy of the Report, which their Lordships have received from the Commissioners of Excise upon this subject; and I have to desire that you will make public, for the information of the Trading Interests in the Colony, such parts of it as relate to the present means of procuring Sand of a similar description in this Country, to the prices the Glass-makers will be likely to pay for it, and to the suggestions in regard to cleansing any Sand, that may be sent home, before shipment.

I am, &c.,

T. SPRING RICE.

Extracts from
report to be
published.

[Enclosure.]

THE COMMISSIONERS OF EXCISE TO LORDS COMMISSRS. OF
HIS MAJESTY'S TREASURY.

1834.
3 Sept.

Report by
commissioners
of excise on
probable value
of sand
imported from
New South
Wales.

MAY it please your Lordships,

Your Lordships having, by Mr. Spring Rice's letter of the 14th of April last, been pleased to direct us to cause enquiry to be made thro' our Officers employed in the Survey of Glass Works, and to report to Your Lordships the result of such Enquiry, how far a description of Sand found at New South Wales, some of which has been brought to this Country and is stated to be particularly adapted to the manufacture of the finest Glass and likely to prove a great acquisition to the Glass Makers, has become known to and been approved of by the Manufacturers; whether it is likely to be in request for the purposes of their manufacture; whether there is any difficulty in procuring Sand of equally good quality in this Country; whether any encouragement has been held out or orders given for its importation by Parties who have tried it; What quantity of such Sand the Glass makers might be likely to consume; and what price it might be worth their while to pay for it on delivery in this Country.

We report that we have caused the enquiry directed by your Lordships to be made, from which it appears that the only Manufacturers, who have hitherto obtained and used Sand from New S. Wales, are Messrs. Pellatt and Co. of London, Mr. Gammon of Birmingham, and Messrs. Bailey and Co. of Portobello in Scotland.

Messrs. Pellatt and Co. and Mr. Gammon state that, in their former opinion, the Quality of this Sand is much Superior for the purpose of making Glass to any that has hitherto been discovered in England, and that, if the price at which it would be sold should not be too high, it would be in great demand, when its superior quality is more generally known. Messrs. Bailey and Co. are however of a different opinion and state that they do not consider that the quality of this Sand is by any means superior to the Sand procured in this Country, of which it is stated there is an inexhaustible supply.

A Sample has also been examined by Mr. Cookson, a Glass Manufacturer residing at South Shields and carrying on business on an extensive scale. This Gentleman is of opinion that the Sand, which can be obtained in this Country, is in every respect as good for the purposes of Glass making as that which he has seen from Sydney; that no Manufacturer, who understands his business, will even import a single Ton on his own account; and that, unless it can be offered to the Glass Makers at the price of English Sand, it will never be in demand in this Country. Mr. Cookson's opinion does not, however, appear to be the result of any practical Examination of its properties.

Many Manufacturers of Glass, who were applied to on this subject, were not aware that any Sand fit for the Process had been imported from New South Wales; but they expressed their readiness to make trial of it, if it could be obtained at a fair price. Others, to whom Samples had been shewn, expressed the same opinion in regard to its quality as Messrs. Bailey and Co. and Mr. Cookson, altho' it does not appear that they have yet made any experiment to ascertain its Quality.

1834.
3 Sept.

Report by
commissioners
of excise on
probable value
of sand
imported from
New South
Wales.

Messrs. Pellatt and Co. appear to be the only parties, who have given orders for a further supply; but they have since declined business, and their Manufactory is not at present at Work.

With respect to the Quantity of Sand which the Glass Makers might be likely to consume, it is stated that the proportion, which the weight of Sand bears to that of the Manufactured Glass, is about 75 per cent. In the last year, 9,600 Tons of Glass, for which the finest sort of Sand is required, were manufactured and the quantity requisite would, according to this calculation, be about 7,200 Tons annually. But, as the Sand must, before it is used, undergo a process to Separate the earthy from the more vitreous Particles, the quantity procured in its original state must be, of course, much greater than that which is finally put in operation for the Manufacture.

The best silicious Earths in this Country are obtained from Lynn in Norfolk, and from Alum Bay in the Isle of Wight. A Sand has also been recently discovered in the neighbourhood of Reigate, which is said to be equal if not superior to any which has yet been discovered. The supply from these places appear to be inexhaustible; and the price, at which it can be obtained at the Pit, is from 9s. to 10s. 6d. a Ton, enhanced by the cost of Freight to Sums varying from 16s. to 50s. according to the places at which it is delivered. The Price of the Sand from Sydney is stated to be about £3 a Ton.

As the object appears to be to obtain a Sand containing as much Silex as possible, uncontaminated with other earthy matters, and more especially free from Iron and other Metallic substances, which would render the Glass less pure and transparent, the comparative qualities of the Colonial and English Sand might, it is presumed, be in a great degree determined by a chemical analysis of each, which Your Lordships will probably think it desirable to sanction. In the meantime, We beg to state that Mr. W. Gammon of Birmingham, the Gentleman to whom we have before alluded, has very recently made an experiment at his Glass Works with 8 Bags of the Sand in question. He states that "he found it of most excellent quality, producing more metal, and making a purer colourless Glass than any hitherto discovered." The Collector, to whom a Sample of the Glass has been shewn, describes its appearance as very brilliant, and, judging from its quality, is of opinion that it might be in general request, altho' it may fetch a higher price than the Sand of this Country. He states, at the same time, that the price of the carriage from London to Birmingham will amount to 40s. a Ton.

A sample of the Glass, manufactured by Mr. Pellatt, has also been examined by the Officers of this Revenue, who concur with the Collector of Birmingham in thinking that it is of a superior quality.

We have only to add that, from the preceding statements, it is evident that the cost of the English Sand, including the Expences of freight and Carriage, constitutes a very small portion of that of the Glass in its manufactured state. The Law has declared that no glass, if not of the value of 11d. per lb. at least, including the duty of 6d. per lb. if for home consumption, shall be entitled to drawback on Exportation; and, assuming the value not to exceed that Sum, the price of a cwt. would be £5 2s. 8d. The cost of a cwt. of the finest English Sand, including the *utmost* expence of freight,

etc., would not exceed 2s. 6d. or about $\frac{1}{4}$ d. a Pound. It is probable therefore that the Manufacturers might be willing to pay an additional price for the Colonial Sand; and, if the Process of Cleansing before Shipment were resorted to, the expence of freight and Carriage would be considerably diminished. We are, &c.,

1834.
3 Sept.

WM. PLUNKETT. THO. HARRISON.
J. C. MUTTOCK. H. PAGET.

GOVERNOR BOURKE TO RIGHT HON. E. G. STANLEY.
(Despatch No. 77, per ship Harmony; acknowledged by
lord Glenelg, 1st August, 1835.)

Sir, Government House, 3rd September, 1834.

I have the honor to transmit a Copy of an Act of the Governor and Council of this Colony for appropriating the sum of £36,584 16s. 4 $\frac{1}{4}$ d. towards the liquidation of certain claims of the Commissariat Department on the Colonial Treasury. The circumstances, which led to this transaction (to which I have adverted in former Despatches), are briefly these.

Act for
payment of
claims of
commissariat
on treasury.

Having arrived here in December, 1831, I found, on making up the accounts for that year, that there remained in the Colonial Treasury a balance amounting to £36,584 16s. 4 $\frac{1}{4}$ d. I ascertained at the same time that the Commissariat had claims on the Colonial Treasury to the full amount. These claims arose from monies paid and stores and Convict labor furnished for Colonial Services during the four preceding years, beginning at the period when, by the Instructions of the Secretary of State contained in the Despatch of Lord Viscount Goderich of the 27th June, 1827, a separation of the Military and Convict expenditure was directed to be made. I therefore determined to reserve the balance to meet those claims, when the accounts should be furnished, appointing a Board to examine them as they were presented. Accounts have accordingly been prepared and claims allowed and discharged to the full extent of the balance I have mentioned.

Origin
of claims.

The Depy. Commy. General reports that there are further claims for the same period still unsatisfied. I have however intimated to him that I am not prepared to make any further payment. When the mixed nature of the Military, Convict, and Colonial Services is considered, it will, I believe, be difficult to make out any further claim, which shall be clearly chargeable to the Colony, but, even should it be possible, I trust the Lords Commrs. of His Majesty's Treasury will not press any further demand against the Colony, as I have already paid over to the

Further claims.

1834.
3 Sept.

Commissariat the entire balance of the Colonial Revenues for the period in question. Such a demand would be strongly opposed in the Council.

Quarterly
adjustment of
expenditure.

I should add that, since the first January, 1832, every item of expenditure by the Commissariat for Colonial Services is discharged at the Expiration of the Current quarter.

I have, &c.,

RICHD. BOURKE.

[Enclosure.]

[*This was a copy of the act of council 5 Gul. IV, No. 14.*]

SIR GEORGE GREY TO GOVERNOR BOURKE.

(Despatch per ship Bengal Merchant; acknowledged by Sir Richard Bourke, 10th September, 1836.)

4 Sept.

Proposals for
improvement
of moral
condition of
female convicts.

Sir, Downing Street, 4 September, 1834.

I am directed by Mr. Secretary Spring Rice to transmit to you the enclosed paper, which has been forwarded to him by "The Ladies of the British Society," containing various suggestions, which they conceive may be usefully adopted in New S. Wales, for improving the moral condition of female Convicts transported to that Colony; and I am to request that you will be good enough to furnish Mr. Rice with a short statement shewing to what extent, so far as may have been found practicable, the propositions of these Ladies have been already anticipated.

I have, &c.,

GEO. GREY.

[Enclosure.]

[*A copy of this paper is not available.*]

GOVERNOR BOURKE TO RIGHT HON. E. G. STANLEY.

(Despatch No. 78, per ship Harmony.)

Sir, Government House, 4 September, 1834.

Submission
of claims of
S. L. Harris
to law.

Referring to the Despatch of Lord Visct. Goderich to Lieut. Genl. Darling of the 19th June, 1831, No. 41, in which it is recommended that Mr. Harris, who had addressed a Memorial of His Lordship complaining of an unfair construction being placed by this Government on an agreement entered into with him for the superintendence of certain public works, should bring his case before the regular Tribunals of the Colony, I have the honor to inform you that, on Mr. Harris notifying his intention to act upon this recommendation, I appointed Mr. Riddell, the

Colonial Treasurer, as a Nominal Defendant to the action to be commenced by Mr. Harris, and instructed the Law Officers to conduct the defence on the part of the Crown.

1834.
4 Sept.

The case was tried on the 1st July last before Mr. Justice Dowling and a special Jury, when a Verdict was returned for the Plaintiff for the sum of £1,420 4s. 6d., which has been paid accordingly. As Mr. Harris's demand was for a Convict Service, I have directed the payment to be made from the Military Chest.

Verdict
obtained by
S. L. Harris.

I have, &c.,

RICHD. BOURKE.

SIR GEORGE GREY TO GOVERNOR BOURKE.

(Despatch per ship Bengal Merchant; acknowledged by Sir Richard Bourke, 23rd June, 1835.)

Sir,

Downing Street, 5 September, 1834.

5 Sept.

I am directed by Mr. Secretary Spring Rice to transmit to you the accompanying copy of a letter from Ellen Remington, and to request that you will have the goodness to furnish me with the result of your enquiry as to the arrival in the Colony of her father Thomas Carry. With reference to the subject of the Pension hitherto paid to him, she has been directed to apply to the War Office.

Report required
re T. Carry.

I am, &c.,

GEO. GREY.

[Enclosure.]

ELLEN REMINGTON TO ———.

Honble. Sir,

Birr, 3d Sept., 1834.

I beg leave to state that my father Thos. Carry, Out Pensioner from the 12th Dgs. at 1s. per diem, sailed from Dublin on board the Cleopatra for N. S. Wales in the month of Novr., 1831, and, as I have not heard from him since, I hope you will say if he has arrived safe and say at what part he was paid his last payment of his commuted Pension and by what Commissary so paid, that I may write to him.

Request
for report.

I remain, &c.,

ELLEN REMINGTON. a. Carry.

SIR GEORGE GREY TO GOVERNOR BOURKE.

(Despatch per ship Bengal Merchant; acknowledged by Sir Richard Bourke, 25th March, 1835.)

Sir,

Downing Street, 6 September, 1834.

6 Sept.

I am directed by Mr. Secretary Spring Rice to transmit to you the accompanying Copy of a letter from Mrs. Horsley, and to request that you will have the goodness to send home the information which she desires, to be accompanied, in the event of her husband's death, by a regular Certificate of that event.

Report required
re J. Horsley.

I am, &c.,

GEO. GREY.

1834.
6 Sept.

[Enclosure.]

MRS. HORSLEY TO SECRETARY OF STATE.

Sir,

Exmouth, Devon., 5th Sept., 1834.

Request for
confirmation
of death of
J. Horsley.

I request to be informed if the death of John Horsley, Esq.,
Coroner of the Liverpool District, N. S. Wales, on the 4th Feby.,
1834, be correct and official, as I am his Wife or Widow.

and your obedt. Servant,

MARIA HORSLEY.

RIGHT HON. T. SPRING RICE TO GOVERNOR BOURKE.

(Despatch No. 24, per ship Bengal Merchant.)

7 Sept.

Sir,

Downing Street, 7 September, 1834.

Increase of
military force
in colonies.

In consequence of the renewed application, contained in
your Dispatch No. 13 of the 17 of Feby. last, and the repre-
sentations of Colonel Arthur, relative to an Encrease of Force
for the Service of New South Wales and Van Diemen's Land, I
deemed it necessary to refer to the General Commanding in Chief
for Information as to the precise number of Troops, which may
be supposed to have arrived, or which may have actually em-
barked, since the determination of His Majesty's Government had
been taken to station an additional Regiment in those Colonies.
I have now the honor of transmitting to you the Copy of a Com-
munication from the Horse Guards upon the subject, and I have
only to express my hope that, in pursuance of the discretion left
with you, a proportion of this augmentation of force will have
been placed at the disposal of the Officer Commanding in the
neighbouring Colony.

I am, &c.,

T. SPRING RICE.

[Enclosure.]

LORD FITZROY SOMERSET TO SIR GEORGE GREY.

Sir,

Horse Guards, 4th Sept., 1834.

Embarkation
of additional
regiment for
colonies.

Having submitted to the General Comg. in Chief your letter of
the 2d Inst., with its accompanying copy of a Despatch from
M. General Bourke, renewing his application for another Regt. for
the service of N. S. Wales and V. D. Land, I am directed to acquaint
you, for the information of the Secretary of State, with reference
to my letter of the 20th Decr. last to Mr. Hay, that the additional
Regt., which H.M. Govt. had then determined should be stationed
in those Colonies, commenced its embarkations in small Detach-
ments in charge of Convicts in Sept., 1833, since which period
540 persons, viz., Serjeants, Drummers and Rank and File of the
50th Regt. have proceeded to N. S. Wales and V. D. Land, 360 to
the first, 180 to the second of those places, the remainder about
167 persons, viz., Serjeants, Drummers, and Rank and File, will
follow in the course of the next two or three months. of which
numbers about 60 will proceed to Hobart Town.

On the arrival of the 50th Regt., the Force for the service of N. S. Wales and V. D. Land will amount to, viz.:

	1834. 7 Sept.
	Regiments quartered in colonies.
	Serjts., Drummers, Rank and File.
4th Foot	762
17th	730
21st	729
50th	717
Total	2,938

of which numbers one entire Regt., the 21st, is allotted for the service of V. D. Land and the Swan River.

The directions given to M. General Bourke in Decr. last, in regard to the Regt. which was to be added to his Force, were general, and it was left to his discretion to dispose of it as the exigency of the service required; but it is to be presumed that, as the Detachments of the 50th arrived, he would attend to the representations of Colonel Arthur, the more especially as he would look forward to the assistance, for some time, of the greater portion of the Corps, which is to follow the 50th Regt. before the 17th proceeded to India, an event which cannot take place for at least two years to come.

I have, &c.,

FITZROY SOMERSET.

GOVERNOR BOURKE TO RIGHT HON. E. G. STANLEY.

(Despatch No. 81, per ship Harmony; acknowledged by right hon. C. Grant, 20th April, 1835.

Sir, Government House, 7th September, 1834.

Referring to my despatch No. 93, dated 30 Novr., 1833, I have the honor to forward a Copy of a letter addressed to me by the Judges of the Supreme Court, on the occasion of my directing one of their number to proceed to Norfolk Island for trial of prisoners who lately attempted an insurrection at that Settlement.

As the Judges, notwithstanding their reasonable complaint of the personal inconvenience and the obstruction of Colonial business which must necessarily follow from such a proceeding, declare their entire concurrence in the view I have taken of its expediency in the present state of the law, and to which I have given full expression in the Despatch before alluded to, I have now only to bring their statement under your notice as a further illustration of the necessity of some enactment by the British Parliament of the kind I have suggested. I have, &c.,

RICHD. BOURKE.

[Enclosure.]

THE JUDGES TO GOVERNOR BOURKE.

Sir, Sydney, 22 June, 1834.

We have had the honor to receive a letter from the Colonial Secretary of yesterday's date, representing to us by Your Excellency's command the necessity which exists for holding a Criminal Court at Norfolk Island, and apprising us of arrangements having been made for the accommodation of the Judge, who should

Criminal court
proposed at
Norfolk island.

1834.

7 Sept.

W. W. Burton
to visit
Norfolk island.

Objections to
visit of a judge
to Norfolk
island.

undertake that duty; and in reply we have the honor to acquaint your Excellency that Mr. Justice Burton will be in readiness to proceed to Norfolk Island, as soon as the necessary arrangements are completed, and to express our thanks to your Excellency for the care which has been taken for his personal accommodation.

In making this communication to your Excellency, we cannot refrain from expressing our anxious expectation that the present arrangement will not be considered as a precedent for the future, or that it will be deemed a part of our duty to proceed to Norfolk Island, whenever the necessity of the case may require a criminal court to be holden there; such an arrangement was not contemplated when we received our appointments as Judges of the Supreme Court; and we would beg leave to refer your Excellency to the *first* and the *present* Acts of the Parliament for the Administration of Justice in New South Wales and its Dependencies, in both of which a specific provision* is made for holding Criminal Courts in the Penal Dependencies of the Colony.

Independently of personal considerations as they may affect ourselves, we feel it to be our duty to represent to your Excellency that the absence of one of the Judges from the Colony, for so long a period as must be necessary for holding a Court at Norfolk Island, is attended with a Material derangement of the routine of business in the Supreme Court and productive of great public inconvenience and delay of Justice. In support of this Statement, we would briefly observe that, while the Court is Sitting at Norfolk Island, it must necessarily terminate its Sittings in Sydney, as the Act of Parliament only provides for one Court, and, during the whole time of the Absence of one of its Judges, the Supreme Court is imperfect for all purposes which require a full Bench.

These observations apply to all the Year, excepting the two months of December and January, Your Excellency being aware that during the remaining ten Months the Court is Seldom closed for more than one fortnight at a time.

We are fully aware of the circumstances under which your Excellency has been induced to propose that offences, Committed at Norfolk Island, Should be tried and punished on the Spot; and we entirely concur with your Excellency as to the expediency of that course of proceeding. In addressing these observations to your Excellency on the present occasion, our only object is to place the Subject in Such a point of view that His Majesty's Government may be fully apprised of the objections and difficulties which necessarily interpose themselves to the measure, and of the urgent necessity which exists for either giving effect to the clause in the Act of Parliament, which enables His Majesty to appoint a special Court for Norfolk Island, or procuring some other enactment, Suited to the exigency of the occasion; and we trust that it will not be considered out of place in us respectfully to Suggest that Norfolk Island, being Strictly a penal Settlement or Insular Gaol, a separate Act of Parliament might be conveniently passed for the trial of offences committed there, without in any manner interfering with any alterations, which may be Contemplated by His Majesty's Government in the general Administration of Justice in New South Wales.

We have, &c.,

FRANCIS FORBES, Ch. Justice.

JAMES DOWLING, J.

W. W. BURTON.

Expediency
of trials at
Norfolk island.

Necessity for
provision for
administration
of justice at
Norfolk island.

* Note 130.

RIGHT HON. T. SPRING RICE TO GOVERNOR BOURKE.
(Despatch No. 25, per ship Bengal Merchant.)

1834.
8 Sept.

Sir, Downing Street, 8th September, 1834.

In answer to your Dispatch No. 14 of the 18th February last, I beg to acquaint you that the Communication alluded to in Sir Edward Parry's letter appears to be the copy of a Report to the Directors of the Australian Company, made by their Secretary, of the result of an Interview held by him with Viscount Howick on the 8th of March, 1830. Although no record of this Document exists in this Department, there is no doubt that it is in substance a correct account of what passed at that Interview, and that the Agreement for the maintenance by the Company of certain Clergymen of the Established Church on the Company's Lands was considered by His Majesty's Government to be annulled, when the new System for the Disposal of the Crown Lands, including the Clergy and School Reserves, came into operation.

Verbal agreement re discontinuance of maintenance of clergy by A.A. company.

I am, &c.,

T. SPRING RICE.

RIGHT HON. T. SPRING RICE TO GOVERNOR BOURKE.
(Despatch No. 26, per ship Bengal Merchant.)

Sir, Downing Street, 9 September, 1834.

9 Sept.

I have received your Dispatch No. 28 of the 21st of March last, enclosing a Memorial from Mr. William Grace, an Attorney, who emigrated to New South Wales by the Ship "Hibernia," which was destroyed by fire at Sea, praying that, in consideration of his loss of property and other misfortunes which befell him on that occasion, a Minimum Grant of Land may be made to him, and a free passage out to the Colony granted to his family.

Refusal of application by W. Grace.

You will have the goodness to acquaint the Memorialist that I regret exceedingly the necessity which I am under of refusing an application addressed to me under such circumstances; but, however distressing may be the case, I do not feel that I could meet the wishes of the Petitioner in either of the ways he has proposed, without appropriating the Crown Lands and the funds derived from their sale to other purposes than those to which I feel it my duty to apply them.

I am, &c.,

T. SPRING RICE.

GOVERNOR BOURKE TO RIGHT HON. E. G. STANLEY.
(Despatch No. 83, per ship Harmony.)

Sir, Government House, 9th Sept., 1834.

I have the honor to transmit for the information of His Majesty's Government a copy of a letter addressed to the Colonial Secretary by Mr. Stephen Addison, master of the Convict

Transmission of letter from S. Addison.

1834.
9 Sept.

Surgeon
engaged at
Madeira for
ship *Susan*.

Ship *Susan*, which arrived here in July last, reporting that, in consequence of the death of Mr. Isatt, Surgeon Supt. in that Ship, Mr. Addison had engaged another Surgeon, Mr. A. G. Ross, at Madeira, with the assistance and sanction of the British Consul there resident, to take charge of the Convicts for the remainder of the voyage.

I take leave to add that nothing has come to my knowledge which occasions any doubt that the master acted for the best under the circumstances.

I have, &c.,
RICHD. BOURKE.

[Enclosure.]

[*A copy of this letter is not available.*]

RIGHT HON. T. SPRING RICE TO GOVERNOR BOURKE.

(Despatch No. 27, per ship *Duchess of Northumberland*; acknowledged by Sir Richard Bourke, 8th May, 1835.)

10 Sept.

Despatch
acknowledged.

Sir,

Downing Street, 10th Sept., 1834.

I have had the honor to receive your Dispatch No. 27 of the 20th March last, representing that you had decided on sending back a Female Emigrant, who arrived in the Colony by the "*Layton*," on account of her total incapacity to obtain a livelihood owing to mental imbecility.

Report *re*
two female
immigrants *per*
ship *Layton*.

I caused a copy of your Dispatch to be sent to the Gentlemen composing the Emigration Committee, in order that they might afford me an explanation respecting that female, as well as in regard to another mentioned in your Dispatch, as being "the wife of a Soldier of the 21st Fusileers, who was not entitled by Regulation to embark with her husband, and who came out on Bounty in the *Layton*, no questions being asked, as she declares, whether she was married or single."

The Committee have returned to me a very satisfactory explanation upon each of these points, copies of which I enclose for your information.

Complaints
published *re*
treatment of
immigrants
on arrival.

In transmitting this explanation to you, I will take the opportunity of offering a few remarks on a very important subject connected with Emigration, to which my attention has been lately called. It has been, I regret to say, very currently reported in the Public Journals of this Country, on the authority of letters which have been received from some of the Emigrants who proceeded to the Colony in the *Layton*, that their reception by the Colonial Government was not such as they had been given to expect. They state that, upon landing, they were placed in the

Lumber yard, a place at that time stated to be in very bad repair; and it is added that the provisions served out to them were of the worst description, and that no attention whatever was paid to their comforts.

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10 Sept.

I am quite aware with what facility such statements may be made, and how much they may be exaggerated; and therefore I need scarcely add that I should not be inclined to attach undue importance to them in any case, more particularly as referring to an Officer in whose prudence and humanity I adopt the principles of my Predecessor in placing the fullest reliance. These complaints have originated very possibly with a few of the less deserving Females, with whose real characters, notwithstanding all the caution which the Emigration Committee have exercised in their selection, it may have been found impossible to become fully acquainted; yet I am sure you will concur with me in thinking that I am bound in duty to the young Women, who may in future emigrate, as well as for the credit of the Public Service, to bring the matter under your immediate attention in reference to Lord Goderich's Dispatch to you of 9th March, 1832, in which his Lordship, after detailing the nature of the arrangements which appeared to this Department as desirable to be adopted, concludes with "a strong reliance on the disposition which he was sure you would feel for securing to those young women, who might determine on seeking a livelihood in another Hemisphere, every means of prospering in the Country which they might choose for their future Home."

Probable
origin of
complaints.

Reasons for
submitting
complaints.

It was of course impossible for the Home Government to point out the exact line of proceeding, which should be followed by the Colonial Authorities on the arrival of a Ship filled with Female Emigrants; and it may, I am aware, be difficult to find a place sufficiently spacious for the reception of so large a Body of persons as arrive in the female Emigrant Ships; but I confidently hope and expect that every protection and accommodation has been afforded to them on landing, and every facility rendered to assist them in their choice of eligible situations, on which so much of their future happiness depended. And I trust that, in recommending to your care and protection the Emigrants who are about to proceed to New South Wales in the Ship "Duchess of Northumberland," I may be certain that every requisite attention will be paid to their comforts and feelings. And with the view of enabling the Committee to answer any enquiries that may be addressed to them, hereafter, respecting the fate of particular Individuals, I have to request that you will send home a detailed Report on the arrival of each Ship with Emigrants of

Inability to
give definite
instructions.

1834.
10 Sept.

Reports
required *re*
immigrants
per each ship.

Gratuity for
superintendents
of immigrant
ships.

this Class, specifying the name of each female, and in what manner she may have disposed of herself on landing, with any other information which may tend to relieve the anxiety of her Parents and friends, and serve not only to correct any erroneous Report, which may hereafter obtain circulation in England as to the reception of such Females in the Colony, but as inducements to others to follow their example; and also that you will, at the expiration of a twelvemonth, make a similar Report of the course, which has been taken by each of the Females so conveyed, as far as their history can be traced by enquiry in the Colony.

Before closing this Dispatch, I beg to draw your attention to an arrangement which has been entered into by the Committee with this Department (the reasons for which are explained in a letter from the Committee, of which a Copy is enclosed) for allowing to the Superintendant of all future Emigrant Ships a gratuity of £50, upon his being provided by a Certificate from you of your approbation of the manner in which he has discharged his duties. The Committee, as you will observe, have undertaken that no trouble or extra expense shall result to the Colonial Government therefrom; and it only remains for me to direct that, upon the arrival of every ship with Female Emigrants in the Colony, you will furnish the Superintendant with a Certificate to that effect, provided you shall be satisfied with the manner in which he shall have conducted himself during the Voyage.

I am, &c.,

T. SPRING RICE.

[Enclosure No. 1.]

MR. E. FORSTER TO UNDER SECRETARY HAY.

Sir,

Mansion House Street, 12th Sept. 1834.

Report *re*
E. Bryan and
wife of soldier
as assisted
immigrants.

I have laid before the Emigh. Committee your letter of the 4th Instant. enclosing Copy of letter from the Govr. of New S. Wales, Stating that Elizt. Bryan, one of the Emigrants by the "Bussorah Merchant" (erroneously stated by the Governor to have been sent in the "Layton"), was in a state of mental imbecility, and incapable in consequence of procuring a livelihood, and that he therefore intended sending her back to this Country to be taken care of by her friends or Parish; and I am, in reply, to acquaint you that the Committee are wholly ignorant of the cause of such imbecility, and are of opinion it must have been produced by circumstances after her leaving England, as it is the uniform practice of the Committee to see and examine every candidate for Emigration, who resides within a distance compatable with her appearing before them personally, prior to their sanctioning her embarkation; and the Committee certainly would not for a moment entertain the application of any Person, whose mental Powers were imbecile, or even in a slight degree impaired. As respects the case of a Woman, also mentioned by the Governor, as being the Wife of

a Soldier of the 21st Regt., and who went out on Bounty in the "Layton" contrary to the Regulations, no questions (as the Woman has stated) having being asked her whether she was married or single, the Come. are quite unable to refer to their records respecting her, *in consequence of the Govr. not mentioning her name!* ! but, if such a case did occur, it can only have arisen from the youth of the Party rendering enquiry as to her being married or single apparently unnecessary; or the Woman has imposed on the Committee a false statement as to the fact of her being single, which she found it convenient to deny on getting to the Colony; for it must be unnecessary to say that the Committee would, as a matter of course (and as they have often done), reject at once every applicant for Emign., who they knew or had reason to believe was a married woman, unless such Woman entirely paid her own passage.

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10 Sept.

Report re
E. Bryan and
wife of soldier
as assisted
immigrants.

The Committee are prosecuting the important objects committed to them by Govt. with the most sedulous attention to every Individual case, and they do not now permit Parties to embark, however respectable their testimonials may apparently be, without causing personal enquiry to be made of those who recommend them, in all cases where the distance will admit of it, and guarding by the most vigilant care against impositions. As respects country cases coming from a distance, they require such Certificates of general character and habits from Ministers, Magistrates, or other Persons of unquestionable respectability, as may afford well grounded reason to believe that the Parties, seeking permission to Emigrate, will conduct themselves in the Colony with industry and moral propriety; and, even as respects Parties residing in distant parts of the Country, the Committee send down their Agent, in all cases where they can, to ascertain by personal enquiry the fitness of the Parties to be permitted to proceed in their Ships before granting such permission. But after all reasonable caution has been observed, and the most vigilant enquiry instituted, it can hardly be expected that the Committee can, *in every case*, be secure against being themselves deceived. All they can do is to fence themselves against imposition by every reasonable enquiry, care, and caution; and the Secretary of State may rely on their continuing to do so, as far as possible.

Precautions
followed in
selection of
immigrants.

I have, &c.

EDWD. FORSTER, Chairman.

[Enclosure No. 2.]

MR. E. FOSTER TO UNDER SECRETARY HAY.

Sir, 11 Mansion House Street, 12th Sept., 1834.

I am directed by the Emign. Come. to transmit to you the Copy of a Resolution, which has been passed at a meeting held this day, deciding on the propriety of giving to the Superintendent of all future Emigrant Ships a Gratuity of £50 on their arrival in the Colony, provided the Governor furnished them with a Certificate of his Satisfaction of the manner in which they discharged the onerous duties of their situations.

Gratuity
proposed for
superintendents
of immigrant
ships.

The Committee will undertake to cause this Gratuity to be paid without any trouble to the Government, or additional expence to the Colony; and, as the welfare and prosperous termination of the

1834.
10 Sept.
Gratuity
proposed for
superintendents
of immigrant
ships.

voyage so much depends upon the exertions and good conduct of the Superintendent, And as the proposed measure will have the effect of creating a great stimulus to his exertions, as well as to give the Committee a hold on his Actions, I have to request that you will move Mr. Secy. Rice to give directions to the respective Governors of N. S. Wales and V. D. Land to furnish the Superintendent with the requisite Certificate, provided his conduct during the voyage may have been such as to merit their approbation.

I have, &c.,

EDWD. FORSTER, Chairman.

[Sub-enclosure.]

RESOLUTION.

Emign. Committee Room,

26 Birchin Lane, 12th Sept., 1834.

At a meeting of the Emigration Committee held this day, it was "Resolved that, in future, in order to secure, as far as lies in the power of the Committee, the active and faithful discharge of the Duties attaching to the Superintendent, on whose exertions and good conduct so much depends, the Sum of £50 to be paid to each Superintendent in the Colony, on the Governor certifying that the Duties of the appointment have been discharged to his entire satisfaction."

EDWD. FORSTER, Chairman.

Resolution by
emigration
committee in
London.

RIGHT HON. T. SPRING RICE TO GOVERNOR BOURKE.

(Despatch No. 28, per ship Bengal Merchant.)

11 Sept.

Sir,

Downing Street, 11 September, 1834.

Transmission
of despatches.

I have the honor to acknowledge the receipt of your Despatches Nos. 19 and 20 of the 1st of March last, in which you transmit to me two applications for Land, the one from Mr. Henry Dixon Owen, the other from Mr. Thomas Heathe White, both Settlers in New South Wales.

Refusal of
application for
land from
H. D. Owen.

Having given full consideration to the grounds which each of these Gentlemen have urged in support of their claims, I have to acquaint you that I do not perceive any circumstances in Mr. Owen's case, which should induce me to view his application in a light different from that in which you have regarded it.

Criticism of
application
from
T. H. White.

With regard to the claim of Mr. White, I am of opinion that it might have admitted of Indulgence, had he forwarded his application to His Majesty's Government at an earlier period, his case being distinguished in some degree from that of others by the fact of his having solicited and obtained permission to select a Location in New South Wales some time prior to the adoption of the new system for disposing of the Crown Lands, which Location he would have duly received but for the wish which he subsequently expressed to exchange it for one in Van Diemen's Land.

Mr. White, however, has allowed a period of more than two years to elapse between the date of Colonel Arthur's Letter declining to give him a Location in Van Diemen's Land, and that at which he renewed his application to you for the Land originally ordered in his favor at New South Wales. Under these circumstances, assuming that Mr. White has had the opportunity of explaining the cause of this delay, and has failed to assign any satisfactory reason for it, I should be encroaching upon the principle, by which His Majesty's Government have been guided in dealing with former applications of the same nature, were I to admit Mr. White's claim to a Location according to the terms upon which it was at first open to him; and I must therefore decline acceding to the Application which he has made upon this subject.

I am, &c.,

T. SPRING RICE.

1834.
11 Sept.
Refusal of
application.

RIGHT HON. T. SPRING RICE TO GOVERNOR BOURKE.

(Despatch No. 29, per ship Bengal Merchant.)

Sir,

Downing Street, 12th Sept., 1834.

12 Sept.

I have received your Dispatch No. 23 of the 3d of March last, relative to a claim amounting to £1,747 10s., which has been made upon the Colonial Government by Mr. Munn, a Settler in New South Wales, in compensation for the loss of a portion of a valuable Allotment of Land granted to him in the year 1824 by Sir Thos. Brisbane, but which Mr. Munn has been lately compelled to resign in favor of another Claimant, to whom it appears that the Jury, empanelled to try the Case, considered that such Land had been previously granted.

Claim by
J. Munn to
compensation
for land at
Darling
harbour.

I agree with you in opinion that it may be questionable whether the Government should be called upon to pay any compensation in such cases; but, in the present instance, where so valuable a part of the original grant continued in possession of Mr. Munn, I have no hesitation in saying that the Government are not bound either in law or equity to make good the loss. At the same time, I admit the case of Mr. Munn to be an exceedingly hard one; and, although I am not prepared to sanction the payment to him out of the Land Revenue of the Colony of the large Sum named in your Dispatch, I am unwilling he should suffer to the full extent of his loss. You are therefore authorised to make Mr. Munn a reasonable Grant of Land at your discretion, in lieu of that which he has been obliged to surrender under the circumstances before stated; but giving him to understand that, as there is no intention on the part of His Majesty's Government

Land to be
granted to
J. Munn.

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12 Sept.
Land to be
granted to
J. Munn.

to assign to him a Grant equivalent in value to the amount of compensation which he has claimed, he cannot be allowed the privilege of selecting an Allotment exceeding 2,560 Acres, the Maximum Grant which, before the promulgation of the new Regulations of 1831, any Settler was permitted to receive.

I am, &c.,

T. SPRING RICE.

GOVERNOR BOURKE TO RIGHT HON. E. G. STANLEY.
(Despatch No. 86, per ship Harmony; acknowledged by
lord Glenelg, 3rd July, 1835.)

Sir, Government House, 12th Sepr., 1834.

Transmission
of letter from
F. Allman.

At the request of Mr. Francis Allman, late a captain in the 48th Regt., who retired on half-pay when that Corps proceeded to India and is now Police Magistrate at Goulburn Plains, I transmit a Copy of a letter addressed by him to General Darling on the subject of certain pecuniary claims on His Majesty's Governmt.

It appears from General Darling's answer to have been his intention to forward those claims for the favorable consideration of the then Secretary of State for the Colonies. This was probably not carried into effect in consequence of General Darling's departure from the Colony soon afterwards; but, on the matter being now brought to my attention, I have thought it right to forward the letter according to the promise then given.

I have, &c.,

RICHD. BOURKE.

[Enclosures.]

[Copies of these letters,* dated 29th September and 21st October, 1831, are not available.]

GOVERNOR BOURKE TO RIGHT HON. E. G. STANLEY.
(Despatch No. 87, per ship Harmony; acknowledged by
the earl of Aberdeen, 15th April, 1835.)

Sir, Government House, 13th September, 1834.

13 Sept.
Transmission of
memorial from
C. Salter.

I have the honor to forward a Memorial from Mr. Caleb Salter, praying to be allowed land under the Regulations in force in the Colony during March and April, 1831, in which months he made application for a grant, and verified his Capital before the Land Board to the amount of £800 in support of his claim.

Refusal of
land grant by
R. Darling.

It appears that General Darling rejected the claim on the ground of Mr. Salter being in business as a Publican. Mr. Salter Complains that he had no notice of this objection, till the

* Note 131.

new Regulations were Established, or he could have shewn that the whole of his capital was ready to be transferred to his farm on the instant of receiving his grant. He applied to me on the subject soon after my assuming this Government, when I of course declined interference, being authorised only to fulfil the promises of my predecessors.

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13 Sept.

Decision by
R. Bourke.

I have, &c.,

RICHD. BOURKE.

[Enclosure.]

THE Humble Memorial of Caleb Salter, of Sydney, in the Colony of New South Wales, a Free Emigrant,

Memorial
of C. Salter.

To His Majesty's Principal Secretary of State for the Colonial Department

Humbly Sheweth,

That, in the year 1828. Your Memorialist emigrated to this Colony, with the intention of settling therein, bringing with him a clear Capital of One Thousand Pounds for investment in his pursuits.

Arrival
in colony.

2. That Your Memorialist determined on his arrival to proceed with due deliberation in deciding on the most advantageous mode of employing his Capital, and settling himself for life; and, in order that he might study the character of the Colony and collect information as to the most eligible localities for the selection of the Grant of Land to which, by the Government regulations then in force, his Capital entitled him, he took up his abode in Sydney "ad interim," arranged for the temporary investment of his Capital, and availed himself of every opportunity for collecting the requisite information for his future guidance.

3. That Your Memorialist, having at length fully determined as to the course he should pursue, applied, in the month of March, 1831, in the form prescribed by the regulations then existing, for the Grant to which those regulations entitled him; to which application he received from the Honorable The Colonial Secretary a reply, dated the 31st March, 1831, apprising him that his claim had been referred to the Land Board with the necessary proofs of the actual amount of his Capital available in the Colony for Agricultural purposes. *Vide Appendix A.*

Application
for land grant.

4. That, on the 4th of the ensuing Month (April), Your Memorialist was accordingly summoned before the Land Board for examination into the proofs of his Capital. *Vide Appendix B.*

5. That, in pursuance of the said Summons, Your Memorialist appeared before the Land Board without delay, and adduced the requisite proofs of the amount of his actual Capital, which, by his successful Management, had by that time become considerably augmented; and the report of the Board thereupon was, as Your Memorialist has sufficient reason for believing, unequivocally to his claim, and regularly forwarded to the proper authority.

Report by
land board.

6. That, immediately after the said examination, Your Memorialist, not entertaining the slightest apprehension as to his receiving a Grant of Land proportioned to the proven extent of his Capital, proceeded at once to make all necessary preparations for taking possession of his farm, and for improving and cultivating it; but, after patiently awaiting some official communication, and seeing other applicants, whose claims had been preferred subsequently

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13 Sept.

Requests for
decision *re*
application.

Refusal of
land grant.

Protest against
decision.

to those of Your Memorialist, put in possession of their lands, Your Memorialist became uneasy at the delay, and addressed a letter to The Honorable The Colonial Secretary, soliciting information as to the progress of his case; but, not receiving any answer for some weeks, Your Memorialist addressed the same officer a *second* time; and no answer arriving to this, Your Memorialist, after waiting a reasonable period, wrote a *third* letter, dated the 28th July, being nearly 4 Months after Your Memorialist's examination before the Land Board.

7. That, in reply to his last mentioned application, Your Memorialist received from The Honorable The Colonial Secretary a letter dated the 9th of the ensuing Month (August), informing Your Memorialist, by command of His Excellency The Governor, that, by the recent regulations, Land was not then disposable except by purchase; and referring Your Memorialist to the Government Notice of the 21st of the previous Month on the Subject. *Vide Appendix C.*

8. That your Memorialist was thus unjustly deprived of his Land by the needless delays of Office; for, having established his claims by the clearest and most unequivocal Evidence on or about the fourth of April, it was not until the 9th of August (a period of more than 5 Months) that he was informed that the new Regulations had interposed an insurmountable difficulty to his obtaining his land, a proposition so monstrously absurd and oppressive that he is sure it can meet with no kind of sanction from His Majesty's present enlightened Government.

9. That Your Memorialist, indignant at such grossly unjust treatment, did not fail to enter his protest against it, still confident that the merits of his case could not fail of obtaining for him ultimate redress; but you, Right Honorable Sir, will judge with what feelings of disappointment and vexation he received a letter from The Honorable The Colonial Secretary, dated the 8th February, 1832, informing Your Memorialist that his application to General Darling for a grant of Land had not been received by that Governor until it was out of his power to attend to it, since, by the King's instructions, the Crown lands could not then be disposed of but by sale, unless an individual should appear to have received a positive promise prior to the 30th June, 1831; and at the same time pointing out that Your Memorialist was "*refused*" a Grant by the late Governor in consequence of his (Your Memorialist's) being in business, and thus having been ineligible by a regulation existing at the time. *Vide Appendix D.*

10. That, however painful it may be to the feelings of Your Memorialist to impugn the conduct of so high a public officer as the representative of His Majesty, he cannot but say that this attempt of the Government of General Darling to exculpate itself from the consequences of its own inexcusable supineness appears to Your Memorialist absurd and unjust in the extreme, for it is manifest on the face of the Documents, of which copies are hereunto appended, that Your Memorialist's claim was not only presented but *proved* before the proper authorities nearly three Months before the date at which the new Regulation came into force; and, as to the assertion in the said letter that General Darling had "*refused*" a Grant to Your Memorialist in consequence of his being in business, and thus having become ineligible by a regulation existing at the time, Your Memorialist solemnly denies that any such refusal was ever

communicated to him until he received the letter in appendix D; and, to illustrate still more clearly the futility of such a protest, Your Memorialist begs most respectfully to entreat your attention to the following analysis of facts, viz. :—

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- (1) Your Memorialist was in business at the time he made his application for a Grant, and that circumstance was expressly stated in his application. Business occupations.
- (2) Your Memorialist was in business when directed to appear before the Land Board, and the Government was well aware that he was.
- (3) Your Memorialist was in business when he was examined by the Land Board, and the circumstance was then fully explained to them.
- (4) Your Memorialist was in business only as a matter of temporary convenience and precaution, as is hereinbefore set forth, and was prepared and resolved to relinquish the same immediately on receiving authority to take possession of his land.

11. That Your Memorialist, still determined to enforce his just claim, applied to His present Excellency General Bourke for a Copy of the Land Board's report upon the amount of his capital; and Your Memorialist had the honor to receive in reply a letter from The Honorable The Colonial Secretary, dated the 21st April, 1832, informing Your Memorialist, by command of His Excellency The Governor, that such copies were never given, as the information contained was in many cases confidential; but at the same time stating that, after enquiry, the Board had seen no objection to Your Memorialist's receiving a Grant of Land according to his Capital, which might then be estimated at "*about Eight Hundred Pounds,*" such being the amount which he Your Memorialist presumes the Board gave him credit for being able to unlock immediately from the Business in which his Capital was then to a certain extent invested. *Vide Appendix E.* Request for copy of land board's report.

12. That Your Memorialist has now no remedy left to him but an appeal to you, Right Honorable Sir, as a Minister of the Crown, and thro' you to the other Members of His Majesty's Government; should you not feel free to order Your Memorialist ample and immediate redress; indulging, as he does, the confident hope that the Government of a free and enlightened Kingdom will not permit a free subject to have been allured from his Native Shores, and induced to embark his worldly all in the painful and hazardous adventure of Emigration, by hopes raised and encouraged by the Public Regulations of that Government itself, only to be the dupe of the supineness or partiality of its local servants. Appeal to secretary of state.

13. That so deeply does Your Memorialist feel the injustice of which he has been the victim, that, should this Appeal to His Majesty's Government fail (which he cannot permit himself to believe) to obtain for him the redress he claims, his legal advisers have recommended him to apprise You, Rt. Honble. Sir (not by any means in the spirit of a Menace, but simply in that of candour and good faith), that your Memorialist will then Appeal by Petition to His Most Gracious Majesty in Council, and to both Houses of the British Parliament. Possible appeal to privy council and parliament.

14. That, with a view to the more complete satisfaction of His Majesty's Government as to the truth of the several Averments in

1834.
13 Sept.

Treatment
received from
R. Bourke.

this Memorial contained, Your Memorialist has appended hereunto his Affidavit to the truth thereof. *Vide Appendix F.*

15. That the present Governor His Excellency Major General Bourke, through whom this Appeal will be forwarded to the Colonial Office, having been pleased at all times to honor Your Memorialist with the most affable and condescending attentions to his case, Your Memorialist ventures to express the hope that His Excellency will accompany this Document with some recommendation that it be taken into the favorable consideration of His Majesty's Government.

Request for
land grant.

Wherefore Your Memorialist humbly prays that You, Right Honorable Sir, will be pleased to take the premises into your most favourable consideration, and authorise and direct the Local Government to issue to him a Grant of Land, not only equal to that which he was entitled to receive at the time when he preferred and proved his claim, but to such an extent as shall compensate the anxiety of Mind and the losses, direct and indirect, which he may be able to shew that he has sustained in consequence of the unjust proceedings of General Darling's Administration.

And Your Memorialist, as in duty Bound, will ever pray, etc..
Sydney, 28th July, 1834.

CALEB SALTER.

[Appendix A.]

MR. T. C. HARINGTON TO MR. C. SALTER.

Sir, Colonial Secretary's Office, Sydney, 31st March, 1831.
I am directed by His Excellency The Governor to inform you that your Application for Land, dated the 24th Instant, has been referred to the Land Board before whom you will be pleased to hold yourself in readiness to appear with the necessary proofs of the actual amount of Your Capital, which is now available in this Colony for Agricultural purposes according to the existing regulations.

I have, &c.

(for the Colonial Secretary),

T. C. HARINGTON.

Application
for land
acknowledged.

[Appendix B.]

MR. C. D. RIDDELL TO MR. C. SALTER.

Sir, Land Board Office, Sydney, 4th April, 1831.
Your Application to His Excellency The Governor for a Grant of Land having been laid before the Land Board with directions to ascertain the Capital of which you are possessed, immediately available for agricultural purposes, we beg leave to request you will be pleased to call at this office on the earliest day you may find it convenient, Sundays excepted, at any hour between eleven o'Clock in the morning and four in the afternoon, giving us at least one day's previous Notice.

It is expected that you will bring with you the necessary Documents to shew the amount of your Capital; and that you will also be prepared to give the names and procure the attendance of one or two persons of known respectability who can vouch for the amount of Capital which you have at your immediate command.

We have, &c.,

for the board,

C. D. RIDDELL.

Summons to
appear before
land board.

[Appendix C.]

MR. T. C. HARINGTON TO MR. C. SALTER.

Sir, Colonial Secretary's Office, 9th August, 1831.
In reference to your letter of the 28th of July last requesting an answer to your Application for a grant of Land,

I am directed by His Excellency The Governor to inform you that, by the recent Regulations, Land is not now disposable except by purchase and to refer you to the Government Notice of the 21st Ultimo on the Subject.

I am, &c.,

(for the Colonial Secretary),

T. C. HARINGTON.

Refusal of
land grant.

[Appendix D.]

1834.
13 Sept.

MR. T. C. HARINGTON TO MR. C. SALTER.

Sir, Colonial Secretary's Office, Sydney, 8th Feby., 1832.
With reference to Your Memorial renewing your Application to General Darling for a Grant of Land, but not received by him till it was out of his power to attend to it, and forwarded to this office by the Governor on the 30th ultimo, I am directed by His Excellency to inform you that, by The King's instructions, the Crown lands cannot now be disposed of but by Sale, unless an individual shall appear to have received a positive promise prior to 30th June, 1831, and at the same time to point out that you were refused a Grant by the late Governor in consequence of being in business, and thus having become ineligible by a Regulation existing at the time. Your request therefore cannot be complied with.

Reasons for refusal of land grant.

I am, &c.,
(for the Coll. Secretary),
T. C. HARINGTON.

[Appendix E.]

MR. T. C. HARINGTON TO MR. C. SALTER.

Sir, Colonial Secretary's Office, 21st April, 1832.
With reference to your letter of the 6th instant requesting a copy of the Land Board's report upon your application for land, I am directed by His Excellency The Governor to inform you that such Copies are never given, as the information contained is in many cases confidential. Refusal of copy of land board's report.

At the same time, I am to state that the Board after inquiry saw no objection to your receiving a Grant of Land according to your Capital, which might then be estimated at about £800.

I am, &c.,
for the Coll. Secretary,
T. C. HARINGTON.

[Appendix F.]

AFFIDAVIT BY MR. C. SALTER.

Cumberland, New South Wales to wit. { CALEB SALTER, a Free Inhabitant of this Colony, Maketh Affidavit by C. Salter. Oath and Saith, That he verily believes that all the matters and things set forth by him in the Memorial to The Right Honorable The Secretary of State for the Colonies, to which this Affidavit is appended are strictly true as therein represented.

Sworn before me this . . . day of July in the year of Our Lord, One Thousand eight hundred and thirty four. [Unsigned.]

I HEREBY certify that Mr. Caleb Salter, the present Memorialist, this day in my presence, tendered his oath to the above Affidavit before the Honorable Chief Justice Forbes, and before Charles Windeyer, Esquire, Second Police Magistrate of Sydney, respectively, and that they both declined administering the same on the ground of its being a voluntary oath, and as such extra-judicial.

Witness my hand this 29th July, 1834.

RALPH MANSFIELD.

GOVERNOR BOURKE TO RIGHT HON. E. G. STANLEY.
(Despatch No. 88, per ship Harmony; acknowledged by lord Glenelg, 3rd July, 1835.)

Sir, Government House, 14 Sept., 1834.

14 Sept.

I have the honor to forward a Memorial from Mr. Archibald Macleod, who has been employed since the year 1826 in the Civil Service of this Colony, and since 1829 as Superintendent of Agriculture at Norfolk Island. He applies for a Grant of Land, which he states to have been bestowed upon others, who held similar situations prior to the New Regulations, but which he was prevented from receiving on account of his residence at a remote Settlement. Request by A. Macleod for land grant.

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Testimony in
favour of
A. Macleod.

Mr. Macleod is a deserving public servant with a large family and might have a fair claim on the bounty of Government, had the system of free grant continued; but I am not aware of anything that distinguishes his case from that of many others in similar circumstances, who are in like manner affected by the change of policy that has taken place in the disposal of Crown Lands.

I have, &c.,

RICHD. BOURKE.

[Enclosure.]

[A copy of this memorial is not available.]

GOVERNOR BOURKE TO RIGHT HON. E. G. STANLEY.

(Despatch No. 89, per ship Harmony; acknowledged by lord Glenelg, 5th September, 1835.)

15 Sept.

Sir, Government House, 15th September, 1834.

Transmission
of acts of
council with
protests by
W. W. Burton.

I have the honor to transmit, pursuant to the provisions of the Act of Parliament, 9 Geo. IV, C. 83, sect. 22, Copies of two acts passed by the Governor and Council of this Colony on the 5 August last, and of representations made by Mr. Burton, one of the Judges of the Supreme Court, as to their repugnancy to the law of England. I have also the honor to transmit resolutions of adherence* by the Governor and Council to the Acts passed by them after a review of the same.

Renewal
of act for
suppression of
of bushranging.

The former of these acts, 5 Gul. IV, No. 9, entitled "An Act to facilitate the apprehension of transported felons and offenders illegally at large, and of persons found with arms and suspected to be robbers," is a continuance with a few alterations of the Act 11 Geo. IV, No. 10, intituled "An Act to prevent robbery and Housebreaking and the harboring of Robbers and Housebreakers." This act was first passed for two years during the administration of Governor Darling at a time when the greatest consternation prevailed on account of the long continued and daring acts of violence and rapine committed by a gang of Robbers frequenting the most populous parts of the Colony. These two years being near their expiration shortly after my arrival in the Colony, I consented with much reluctance to renew the act for two years longer, under the circumstances which I had the honor to represent in my Despatch of 19 March, 1832, No. 39. These two years having since expired, the act was again renewed for two years with another Title and some trifling change in the Enactments on the 5th August last.

Power of
apprehension
on suspicion.

The most important feature† of the act is the authority, which it vests in any free person, to apprehend any stranger on suspicion of being a Convict illegally at large, throwing the proof

* Note 132.

† Note 133.

of freedom and innocence on the suspected party. The law was originally passed, as I have just stated and as is expressed in the preamble* to its first enactment, on account of an "alarming increase of robbery and house-breaking," and as a "Temporary" provision "suited to the emergency of the occasion."

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Though this emergency has for some time ceased to exist, a very general impression prevails that the continuance of the act is useful in such a community, as is found in this Colony, and that its free population derives far more security than they suffer inconvenience from its operation. I felt, however, great repugnance, where the plea of violent necessity no longer existed, to continue an act so contrary to the spirit of English Law without feeling assured that the opinion of the best informed Colonists was decisive in its favor. I therefore addressed a circular to the Magistrates of which, as also of the replies which it elicited, printed copies are transmitted. These were laid before the Council and the subject brought specially under their notice by me in the several minutes, of which copies are sent herewith. They serve to shew the reluctance with which this Government proposed the renewal of the act, and that the state of the Country and of public opinion were fully considered before the measure was adopted.

Public opinion
in favour of act.

The Council having assembled at the usual period in May last, a Sub-Committee was appointed to consider and report upon the replies of the Magistrates. A Copy of their report accompanies this Despatch. The result has been the unanimous declaration of Council in favor of passing for two years the act now forwarded, the only material difference between this and the former act consisting of an alteration of the preamble, which refers in general terms to the necessity for passing it, to the condition of this Colony as a receptacle for transported felons, instead of to those particular outrages which suggested the law in the first instance. I have only to add that I believe the necessity of the case is very generally admitted, and that it would occasion very great dissatisfaction amongst the free People of the Colony to deprive them of the protection which this law affords.

Legislative
council
unanimous in
favour of act.

The second act, of which I have the honor to forward a Copy, the 5 Gul. IV, No. 10, is "An Act for removing doubts respecting the application to New South Wales of the Laws and Statutes of England relating to usury, and to limit and define the rate of interest which may be recovered in cases where it hath not been previously agreed on between the parties."

Usury act.

The Law on this subject had been for some time in an unsatisfactory state. From the earliest periods of the Colony, money had been borrowed at various rates of interest without reference

Reasons for
introduction
of act.

* Note 133.

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Reasons for
introduction
of act.

to the English usury Law; but, until the year 1833, the validity of agreements for payment of more than five per cent. interest had never been distinctly determined by the Supreme Court. On the question being raised at the time referred to, two of the Judges, Chief Justice Forbes and Mr. Dowling, were in favor of the validity of such agreements, while Mr. Justice Burton took the opposite view of the case.* At the Session following this decision of the Court, the Legislative Council recommended to me, by an unanimous Resolution, the introduction of a Bill "for fixing at 8 per cent. the rate of interest to be recovered in any Court of Law or equity in the Colony."

Introduction
of act.

This Bill I accordingly caused to be prepared and laid on the Table on the 28th August, a short time before the adjournment of the Council, intimating by an accompanying minute that, "as the subject was of great importance to the landed and Commercial interests, and some difference of opinion existed among the Colonists both as to the rate of interest to be fixed and as to the avoidance of Contracts made at any higher rate of interest than that established by law, I proposed at that time to proceed no farther with the measure than to direct that the Bill be printed and remain over for consideration until the meeting of Council in the next year."

Report by
sub-committee
of council.

When the Council met in May last the question was resumed, and a Sub-Committee appointed to examine witnesses and report thereon. Their report, with the Minutes of the Evidence adduced before them, I have the honor to transmit. You will perceive from this report that a general agreement prevailed on the two points settled by the act now transmitted, the non-application of the English usury Laws to this Colony, and the settlement of a rate to be recovered in the Colonial Courts where none was fixed by the parties.

Difference of
opinion *re*
higher rates.

With regard to agreements for a higher rate, though the Council were unanimous in opinion that no penal provisions should be introduced to restrain them, some diversity prevailed as to the propriety of allowing more than a certain established rate to be recovered in a Court of Justice. The Council however, after fuller consideration, have adopted the policy of non-interference contrary to what seemed to be the intention, when the introduction of a Bill on the subject was first proposed to me in the Session of 1833. Although I was at that time disposed to concur in their view of the case, I have now no doubt on my mind that the present measure is the best suited to the circumstances of the Colony.

I have now to submit these acts, and the documents connected therewith for the Commands of His Majesty, having shewn, I

* Note 134.

trust, by the foregoing statement, that due caution and deliberation have been exercised by this Government on questions so important, whether considered in themselves or with reference to the precedents of English Law.

I have, &c.,

RICHD. BOURKE.

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ENCLOSURES with Major General Bourke's Despatch No. 89,
15 Sept., 1834.

Appendix A, Relating to the 5 Geo. IV, No. 9, or Bushranging Act. Enclosures to despatch.

1. 13 March, 1834, Votes and Proceedings of Legislative Council. Governor's Minute.
2. 8 April, Votes, etc. Governor's Minute.
3. March and April, Opinions of Magistrates.
4. 13 June, Votes, etc. Sub-Committee appointed.
5. Bill.
6. Report of Sub Committee, 2 July.
7. Votes, etc. 2nd reading, 10 July.
8. Votes, etc. Bill passed 5 Augt.
9. Act.
10. 22 Augt., Votes, etc. *Mr. Justice Burton's Representation laid before Council.*
11. 26 Augt., Votes, etc. *Mr. Justice Burton's grounds of objection.* Votes of adherence.
12. Act as finally printed.
13. *Summary of Chief Justice Forbes's opinion.*

[*These were all papers, printed in the "Votes and Proceedings" of the legislative council, excepting those printed in italics above, which were as follows:—*]

[No. 10] MR. JUSTICE BURTON TO GOVERNOR BOURKE.

Sir, Sydney, New South Wales, 19th August, 1834.

Having this Day disembarked from on Board H.M. Ship "Alligator" from Norfolk Island, and observing that certain of the provisions of two Acts of Council, passed during my absence on Duty at that Settlement, are in my opinion repugnant to the Statute, 9 Geo. IV, C. 83, and to the Laws of England, viz.:

Protest by
W. W. Burton
against
bushranging
and usury acts.

An Act, 5 Wm. IV, No. 9, entitled, "An Act to facilitate the apprehension of transported felons, and offenders illegally at large, and of persons found with arms and suspected to be robbers"; and

An Act, 5 Wm. IV, No. 10, entitled "An Act for removing doubts respecting the application to New South Wales of the Laws and Statutes of England relating to Usury, and to limit and define the rate of Interest which may be recovered in cases where it hath not been previously agreed on between the Parties."

I have the honor to transmit to Your Excellency a representation of such my opinion; but having so lately become apprised of the passing of those Acts, and this being the last day* allowed by Law for the transmission by me of such representation, I am unable at this moment to State "fully and at length the grounds of my opinion," which I will however prepare without delay and forth with transmit to Your Excellency.

I have, &c.,

W. W. BURTON.

* Note 135.

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[No. 11] MR. JUSTICE BURTON TO GOVERNOR BOURKE.

Sir,

Sydney, 25 August, 1834.

Opinion by
W. W. Burton
of repugnancy
of bushranging
act to laws of
England.

I have now the honor to transmit to Your Excellency the grounds of my opinion, contained in my letter to Your Excellency of the 19th instant, that certain provisions of the Local Act, 5 Wm. 4, No. 9, entitled,

“An Act to facilitate the Apprehension of transported Felons, and Offenders illegally at large, and of persons found with Arms, and suspected to be Robbers,”
are repugnant to the Laws of England, which are as follows:—

1st. By the 1st Section, it is enacted “that it shall be lawful for any Constable or other person, whatsoever employed in or belonging to the Police of the said Colony, or for any free person whatever, having reasonable cause to suspect any person to be a transported Felon or Offender, unlawfully at large, immediately by himself or with the assistance of other persons, and without a Warrant, for such purpose to apprehend or cause to be apprehended every such suspected person, and him to take, or cause to be taken, before the nearest Justice of the Peace for examination as hereinafter provided.”

By the 7th Section, it is enacted “that all His Majesty’s Subjects shall be liable to be called upon to aid and assist any Constable or other person in executing and enforcing the several provisions thereof; And every person, who shall be so called upon to aid and assist, and shall refuse or neglect so to do, shall be liable to a fine not exceeding Five pounds, to be recovered and levied in a summary manner, before any Justice of the Peace, over and above any other punishment to which such person shall be liable by Law.”

By the 8th Section it is enacted “that, if any Action or suit shall be brought against any Justice of the Peace, Constable, or other Person or Persons, for any Act or thing during the continuance of this Act, done in furtherance of the objects or in pursuance of the provisions of this Law or ordinance, the defendant or defendants in every such action or suit may plead the General Issue, and give this Act, and the special Matter in evidence at any trial to be had thereupon; and, if the Verdict shall be for the defendant or defendants in any such action or suit, or if the Plaintiff in any such action or suit shall be nonsuited, or discontinue his, her, or their Action or suit, after the defendant or defendants shall have appeared, or, if upon demurrer judgment shall be given against the Plaintiff or Plaintiffs, the defendant or defendants shall have treble Costs, and Shall have the like remedy for the same, as any other defendant or defendants hath or have in any other case to recover costs by Law.”

The Law of England* makes every man an officer to arrest a *Traitor* or *Felon*, and all persons of Competent Age, who are present where *treason* or *felony* is committed or a dangerous wound is given, are bound to apprehend the Offender on pain of being fined and imprisoned for their neglect; they are also bound to raise Hue and Cry, and pursue him; and every private person is bound to assist an officer demanding his help for the taking of a *Felon* suppressing an affray or apprehending the affrayers.

* *Marginal note.*—Hawk. P.C. Bk. 2, Cap. 12.

In such cases they are under the same protection of the Law as Officers of Justice;* if they are resisted and killed, it is Murder in the party resisting and Slaying; if the Offender flees and cannot be otherwise apprehended, and is killed, it is in them Justifiable Homicide, but in all these cases it is essential† that a Felony should have been committed, or that a Hue and Cry has been raised.

Private persons are also permitted by Law (but not enjoined) to arrest without Warrant, upon *sufficient causes of suspicion of Treason or Felony*,‡ but in such cases if an innocent person has been arrested, and it be proved that no Treason or Felony has been committed, the party arresting or causing the arrest does so upon his own responsibility.§ and, not being enjoined by Law, is no longer within the same protection of the Law, if resisted or slain, and if he should kill upon pursuit; and a party, injured by a wrongful arrest, under such circumstances has his remedy by action against him.||

Private Persons are also permitted by Law¶ to arrest others upon their own authority for the prevention of a *Treason or Felony*, or any act which would manifestly endanger the life of another, and may detain him until it may be reasonably presumed that he has changed his purpose.

As to arrests by Officers of Justice without Warrant, wherever an Arrest may be justified by a private person, in every such case it is a fortiori** justified by an Officer of Justice, or persons in their aid, and all the protection which the Law affords to private persons of course extends to them and the same immunity from Action; with this also, that an Officer is justified in arresting upon reasonable suspicion from information or charge of others (*who continue however liable to a party aggrieved*) and at the suit of the party arrested, notwithstanding that he is not only proved afterwards to be innocent, but also that no Felony has been committed.††

But neither Officers of Justice nor private persons are *enjoined or permitted* by the Law‡‡ of England to arrest another without Warrant upon *mere suspicion of having committed a misdemeanour without violence*; and, having no such authority, it follows that they are not within the protection which the Law affords to persons in the performance of a duty or authority; and, if a party so arrested should afterwards prove to be *innocent*, he would be entitled to maintain an action for the injury sustained, and the offence mentioned in the 1st Section of the Local Act, vizt., that of "transported Felons or Offenders" being unlawfully at large within this Colony, *being a misdemeanour only*, under the provisions of the Local Act 3rd Wm. IV, No. 3, it also follows that the 1st Section, which gives authority to Constables and private persons to arrest

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of bushranging
act to laws of
England.

* *Marginal note*.—Foster, Crown Law, Disc. 2, Cap. 2, Sec. 2, and IV Cap. 8, Sec. 15.

† *Marginal note*.—Foster, ut Supra, Sec. 15.

‡ *Marginal note*.—Hawk. P.C. Cap. 12, from Sec. 7 to 13.

§ *Marginal note*.—Foster, ut Supra, Sec. 15.

|| *Marginal note*.—Smith v. Payne and others, Douglas Rep. 359.

¶ *Marginal note*.—Stonehouse v. Elliott, 3 Term, Rep. 315; White vs. Taylor and Simcox, 4 Espinasses, Rep. 80; Hedges vs. Chapman, 8 Bingham's, P. 253; Hawk, P.C. Bk. 2, Cap. 12, Sec. 19; Foster, Cro. Law, Disc. 2, Sec. 4.

** *Marginal note*.—Hawk, P.C. Bk. 2, Cap. 13, Foster; Cro. Law Disc. 2, S. 1 to 3.

†† *Marginal note*.—Smith v. Payne and other, cases ut Supra.; Hobbs v. Branscomb, Drinkwater and others, 3 Camp., rep. 420.

‡‡ *Marginal note*.—Hawk, P.C. Bk. 2, Cap. 12 and 13; Foster, Cro. Law, Disc. 2.

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any person upon mere suspicion of being a transported felon or offender unlawfully at large, and the 7th Section whereby all persons are enjoined to assist any Constable or other person in so doing, and the 8th Section whereby they are indemnified against the consequences of such Acts, the effect of which provisions is to change the respective liabilities of all the parties, if death should happen in making such arrest, and to take away the right of action of an innocent party aggrieved by a wrongful arrest, are repugnant to the Laws of England.

2ndly. By the 2nd Section of the Act, "every suspected person, who shall be taken before any Justice of the Peace as aforesaid, *shall be obliged to prove, to the reasonable satisfaction of such Justice, that he is not a felon or offender under sentence of transportation*, upon which proof he shall be immediately discharged; and, in default of such proof, such Justice of the peace may cause such person to be detained in safe custody *until it be proved as aforesaid* whether he be under sentence or Free; *and the proof of being free shall be upon the person alledging himself to be free*, Provided always that every such Justice of the Peace may, in his discretion, cause every such suspected person to be securely removed to Sydney, to be there examined and dealt with in like manner as aforesaid, and every person arrested and taken before a Justice as aforesaid, who shall be proved to be unlawfully at large, shall be dealt with according to Law."

It is a principle of the Common Law of England that every man is presumed to be Free, until he has been proved to have forfeited, or been deprived of his legal character of a Free man; and the Law casts upon the party, charging another with having committed an offence or seeking to deprive him of his liberty, the burthen of proving his guilt, and not upon the party accused, before any such proof has been given, to shew his innocence. But the 2nd Section of the Act, without requiring any preliminary proof on the part of the accuser, casts upon every suspected person, who shall be taken before a Justice of the Peace, the obligation of proving to the reasonable satisfaction of such Justice that he is not a felon or offender under Sentence of transportation, and imposes imprisonment upon him until he is able so to do. For which reasons, I am of opinion that it is repugnant to the Laws of England.

3rdly. The offence "of transported Felons or Offenders, having Fire Arms or other Weapons in their possession without permission of their Masters or of a Justice of the Peace, without being able to prove that they are intended for a lawful purpose," is, by the Local Act 3 Wm. IV, No. 3, Sec. 12, made *Felony*, and to be punished by transportation for life to a penal Settlement, and by the 3rd Section of the local Act, 5th Wm. IV, No. 9 (now under consideration) "*every person found with fire arms or other weapons in his possession, under circumstances affording a reasonable ground for suspecting that he has committed or intends to Commit a Robbery or Felony, is liable to be apprehended and dealt with in the manner provided by the first and second sections of the Act (already observed upon) respecting Persons suspected to be transported felons, or offenders unlawfully at large; and it is enacted that every person who shall be proved to be free, and shall not shew to the*

satisfaction of such Justice (that is the Justice before whom he shall be taken) that the fire-arms or other Weapons found in his possession were intended for a legal and innocent purpose, shall be committed upon a charge of misdemeanour, and being thereof lawfully convicted, before the Supreme Court or any Court of Quarter Sessions, shall be liable to be imprisoned, at the discretion of such Court, for any time not exceeding three Years; and in every such case, whether previously to the committal by the Justice of the Peace or upon trial before the Competent Court, the proof that such fire-Arms or other Weapons were intended for a legal or innocent purpose shall be upon the person in whose possession the same shall have been found."

So that, if a Free person shall be found with fire arms or other Weapons under circumstances of suspicion, vizt., "that he had committed, or intends to Commit a robbery or Felony," and it being afterwards found upon investigation that he has not committed it, and that there has been no actual attempt made by him to commit it, He is still bound to prove that he is a free person in the manner prescribed in the 2nd Section (as to which I would again apply in this place the same remarks which have already been made thereon); having succeeded in so doing, it is nevertheless made a misdemeanour in him, *punishable by three Years' imprisonment*. "if he shall not also shew to the satisfaction of the Justice," before whom he is taken, that the fire arms or Weapons were "*intended to be used for a legal and innocent purpose.*" and upon his trial *the proof of legal or innocent intention is imposed upon him*, the party arresting him, having wholly failed in proving any legal cause of detention, and he having proved his right to be discharged out of Custody, is to be put upon his trial for a misdemeanour and found guilty and imprisoned for three Years, *if he do not prove his innocence.*

The effect of which provisions, taken together with the 8th section above referred to and observed upon, is to subject a person, upon the mere suspicion of any other person to be dealt with as one whose guilt has been fully proved, and to take away the rights of action of an innocent party aggrieved under such circumstances, against the party who has injured him by a wrongful arrest.

Whereas, by the Common Law of England, no man is bound upon a charge against him in the first instance to prove his innocence; but on the contrary his accuser is bound to prove all the facts, which the Law makes necessary to constitute the offence charged; and that, in all cases, whether depending upon actual commission or guilty intention, and if an innocent party be injured by wrongful arrest, the Law gives him a remedy by Action against the party injuring him. For which reasons, and also those above stated (the third Section of the Act being dependent in some of its provisions upon the 1st and 2nd Sections), I am of opinion that the provisions of the Third Section are repugnant to the Laws of England.

4thly. By the fourth Section, it is "enacted that it shall be lawful for any Constable or other person employed or belonging to the Police of the Colony, or for any free Person whatever, *having reasonable cause for suspecting that any person may have fire-arms or other weapons concealed about him, to search or cause to be searched any such suspected person*; and, in case of discovering any such fire-arms or other Weapons, to take him before the nearest

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of bushranging
act to laws of
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Justice of the Peace to be dealt with in all respects, as hereinbefore is provided in reference to persons found with fire arms or other weapons in their possession."

The effect of which is that the *mere suspicion that any person has in his possession Fire-arms, or other Weapons, unexposed and unattended by any circumstances of suspicion that he intends to use them illegally*, renders him liable to be searched by any constable or officer of Police, whether Free or Convict, and by any other free person; and then *being found to have fire-arms or other Weapons in his possession* renders him liable to be apprehended by any person and taken before a Magistrate, and obliged to prove in the manner pointed out by the first and second Sections, *that he is free* (as to which I would again apply in this place the same remarks, which have already been made thereon); and that, after he has thus proved himself to be free, the *mere possession of the fire-arms or other Weapons, unexposed, unattended with any circumstances of suspicion that he intends to use them illegally, is made to establish a presumption that they are intended for an illegal or guilty purpose*, and exposes him to be dealt with in all respects, and punished as is provided in the 3rd Section in reference to persons found with fire arms or other Weapons in their possession under circumstances of suspicion (as to which I would again apply in this place the observations which have been already made on that Section) and further, the effect of these provisions taken together with the 8th Section is to take away from an innocent party Wrongfully arrested the privilege of personal protection and right of lawful resistance to an assault upon his person, to dispossess him of the protection of the Law, and to give it to a trespasser, and to deprive him of all right of action against a party, who has wrongfully assaulted his person, and deprived him of his liberty; Whereas by the Law of England,* it is lawful for His subjects to carry arms for their own personal protection, and the presumption of Law, in the absence of proof to the Contrary, is in favor of innocence.

For which reasons, and also for those thirdly above stated (inasmuch as the 4th Section is in some of its provisions made dependent upon the third), I am of opinion that the provisions of the 4th Section are repugnant to the Laws of England.

5thly. I am of opinion that the several provisions of the Act, which have been shewn as above to be repugnant to the general Laws of England, are also repugnant to the Stat. 9 Geo. IV, c. 83, upon the following grounds, Vizt., that it is by the 24th Section of that Act provided "That all Laws and Statutes in force within the Realm of England, at the time of the passing of that Act (not being inconsistent therewith, or with any Charter or Letters Patent, or order in Council which may be made in pursuance thereof) *Shall be applied in the administration of Justice in the Courts of New South Wales and Van Diemen's Land respectively, so far as the same can be applied within the said Colonies.*"

That those parts of the Laws of England, which are above stated, were in force in England at the time of the passing of that Act, and the object of the proposed Bill is to prevent their application in the administration of Justice in this Colony.

6thly. It remains that I point out to Your Excellency more particularly the important consequences, which may be expected to

* *Marginal note.*—Nat. 1 W. and M., Sess. 2, Cap. 2.

result from the above deviations from the Law of England, in order that it may fully appear that they are of so considerable a character as not to be made, but upon the most urgent and unavoidable necessity.

As to those parts of the Act which give authority for the arrest of persons by Officers of Justice and private persons, and make it their duty to do so, under circumstances where such arrest is not authorized by the Law of England, as in the 1st, 3rd, 4th, and 7th Sections of the Local Act, it follows that officers of Justice and private persons so authorized may, in the exercise of that authority and performance of that duty, do all those things which persons having authority by the Law of England or whose duty it is to arrest offenders may do, but which done without the authority of the Law make the Parties committing them trespassers, and liable as such to the legal consequences of their trespass; and thus the whole Law of England, as it relates to offences against the Persons of individuals, from that of assault to that of murder, becomes entirely reversed.

The Arrest or Search, which by the Law of England is unlawful, might be resisted by a person knowing himself to be and afterwards proved to be innocent; and, if in so doing it should unfortunately happen that the aggressor should be slain by him, the killing would at the most be manslaughter, and in many cases Justifiable Homicide, which under the Local Act would, whether he were innocent or guilty, be Murder; on the other hand, if the death of the party attempted to be arrested should ensue in over-coming his resistance, that, which if done without authority would by the Law of England be murder, becomes in consequence of the authority, given by the Local Act, Justifiable Homicide.

In the same manner where the arrest is under the authority of the Law, as in cases where the Local Act gives an authority Contrary to the Law of England, if the party attempted to be arrested flees, pursuit may be made; and, if he cannot be otherwise taken and prevented from escaping, and be slain, it is Justifiable Homicide in the party killing him; but, if he kill any of his pursuers, it is murder; whereas, if the same acts shall be done under the Law of England, the legal consequence of it would be murder in the former case, and Justifiable Homicide or at the most manslaughter in the latter.

Doors may be lawfully broken open and parties resisting it slain, where he, whose arrest is under authority of the Law, betakes himself to his house, which are sacred, and the parties breaking them Guilty of Murder, if the party resisting be killed, where there is no such authority; on the other hand, where under the Local Law the party resisting such an aggression should kill another, he would be guilty of Murder, the same Act committed under the same circumstances would by the Law of England be Justifiable Homicide, or at the most manslaughter.

And in those offences against the persons of Individuals, where death does not ensue, the same Act which by the Local Law would, if committed on a party proved to be innocent, be lawful, and the injured party precluded from legal redress and liable to treble costs if he should bring an action, if committed under similar circumstances under the Law of England would be unlawful, and the injured party entitled to redress in an action for damages.

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15 Sept.

Opinion by
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of repugnancy
of bushranging
act to laws of
England.

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These results, if happily none have yet occurred of a nature to attract public attention, are nevertheless such as a day may bring forth, and especially when it is considered how large a number of Free Emigrants are now Yearly adding themselves to the population of this Colony, bringing with them their English feelings, and a knowledge which the lowest possess of their personal rights by the Law of England; and that they arrive in this Colony ignorant of this particular Local Law, which is so widely different therefrom; when also it is considered how large a proportion of His Majesty's free subjects travel upon the roads of this Colony, having for lawful purposes fire-arms concealed about them, any one of whom may by the Local Law be lawfully searched and apprehended and taken before a magistrate by any free person, who has reasonable cause for suspicion that he has such in his possession; it is not enough to allege "*the absence of any recorded case of abuse or injustice arising out of it,*" as a reason for continuing the Law. But the fact that it *may produce such consequences* forms one of the grounds of my opinion against it.

It is a consequence also of the giving authority to private persons to arrest without Warrant upon mere suspicion, and indemnify them from all the consequences of so doing, that there is not that check preserved over their conduct, which may be a security that they will not commit abuses.

An Officer of Justice is amenable to his employers, and may (if not liable to an Action) at all events suffer the loss of his situation, if he act improperly although within the letter of the Law; but a private person, who is indemnified from the legal consequences of his Act, and is liable to no such loss, is far less worthy of confidence than the other; and an innocent person may be seriously injured by a wrongful imprisonment caused by a private Individual, if arrested in a distant part of the Colony, on suspicion of being a transported felon or offender unlawfully at large, and detained in safe custody for several Weeks, and afterwards removed in similar custody to Sydney to be there examined, before he may be able to comply with the requisites of the 2nd Section in proving himself to be free to the satisfaction of the Justice before whom he may be taken.

Whether the circumstances stated in the preamble of the Local Act, Vitz., that "it has been His Majesty's pleasure to appoint this Colony as a place to which felons and other offenders under sentence or order of transportation or banishment shall be conveyed for the purpose of being there employed on the Public Works, or assigned as Servants to private persons for their benefit, on which account it has been found necessary to establish efficient regulations of Police for the control of such transported felons and offenders, and to protect His Majesty's free subjects within the said Colony by laws suited to the actual state and condition thereof" are such as to justify on the ground of necessity alone so wide a departure from the Law of England, will I apprehend depend upon the question whether those objects could be attained by a less sacrifice of the fundamental principles of the Law.

It is true that the Law of England does not contemplate the existence within the British Dominions of a Class of Persons similarly circumstanced to the Convict population of this Colony; but several of its provisions may be made strictly applicable to such a state,

and where these are wanting, others may be framed preserving the spirit, and without departing from fundamental and constitutional principles; thus, although it be admitted to be necessary that any person should be liable to be arrested without warrant by any Constable or other peace Officer, having reasonable cause to suspect such person to be a transported felon or offender unlawfully at large, and in so far as the provisions of the 1st and 8th Sections of the Local Act legalize such an arrest, and protect the *Officer of Justice* making it from all the consequences which might happen upon attempting it, or might ensue from the arrest proving afterwards to be wrongful, and although it should be admitted to be necessary that a private person should be authorised to arrest without Warrant "*any transported felon or offender*" (preserving by those terms to the party aggrieved his remedy against the Aggressor, if he shall prove to be free), both of which, although not within the letter of the Law of England, might be legalized without invading its spirit; yet it does not follow that the necessity exists for authorising a *private person* to do such an act *upon bare suspicion* that a party is a transported felon or offender, and for protecting him from the legal consequences of his Act, when proved to be wrongful, to the prejudice of an innocent party who has suffered by it; and before the latter is deprived of his legal rights in such a case, the necessity for doing so ought to be shown.

So also as to a person who has been arrested on suspicion of being a transported felon or offender, although it be admitted to be necessary to detain such person in custody for a sufficient and reasonable time, in order to ascertain the truth of that fact, and that might be legalized without any invasion of the spirit of the Law of England, yet that being done and the means of proving him to be such being already prescribed by the local Act of 3rd W. IVth, Sec. 35, and very simple and in the power of any person to obtain, vizt., "*By production of the Indent, or an Extract from it, under which the party arrived in this Colony, accompanied by proof of his being reputed to be and dealt with as that person,*" the necessity ought to be made apparent for relieving his accuser from that duty, and imposing upon him the burthen of proving himself to be free to the satisfaction of the Justice and detaining him in custody until he does so, and depriving him of his remedy by law, if afterwards shewn to be an innocent person wrongfully arrested.

And further although it be admitted to be necessary to apprehend and correct in a summary manner rogues and vagabonds, whether free or bond. Yet when the English Vagrant Act, 3 Geo. IV, c. 40, includes in its ample provisions not only all those suspicious persons, who are mentioned in the Local Act, vizt., all such "who shall be apprehended having in possession any picklock, key, crow, jack, bit or other implement with intent feloniously to break and enter into any dwelling house, ware-house, Coach-house, Stable, or out-building, or having in possession any gun, pistol, hanger, cutlass, bludgeon, or other offensive Weapon, with intent to assault any person or persons, or commit any other illegal Act," and when the provisions of the English Vagrant Act include many other descriptions of persons, who might with equal propriety be the objects of summary apprehension and Correction in this Colony, which have not been, but which might be applied without any departure from either the letter or spirit of the Law of England, the necessity ought

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to be shewn for imposing upon the party charged the burthen of proving his innocence, and of departing from a fundamental principle of the English Law, that his accuser is bound to prove the facts which constitute the charge against him.

Lastly, *if it be necessary* to prevent any person from carrying fire-arms or other Weapons unexposed, and to subject any person to be *searched upon bare suspicion* of having such arms or weapons, concealed and unattended by any other circumstances of suspicion, and to be apprehended and taken before a Justice and detained in Custody, until he prove himself to be free, and further proves that the fire-arms, or other weapons were *intended* to be used for a legal and innocent purpose, and to deprive him of his remedy by action, if he be afterwards found to be altogether innocent, the necessity ought to appear for any *further* departure from the principles of the Law of England, than to allow such a search upon mere *suspicion* to be made by *any Officer of Justice*, whose person or badge of office being known may protect ignorant persons from making resistance to his authority.

The law in question is nearly similar in its terms, excepting in the provisions of the 5th Section, to the local Act 11th Geo. IV, No. 10, which was subsequently continued for two Years by the local Act, 2 Wm. IV, No. 9, at both which times I had not the honor of a seat upon the Bench of this Colony; but, referring to the preamble of the first mentioned Act, and to the history of the period when it was passed, it appears evidently to have been framed upon a sudden exigency, and was limited to the shortest duration, which, as I am informed, His Majesty's instructions allow for local ordinances passed in this Colony; it is expressly declared that it was only intended to be temporary, under which circumstances I presume that the then Judges of the Supreme Court, feeling themselves bound by the recited necessity of the case which was then stated upon the authority of the Legislative Council to exist, made no representation against it, although I have authority for saying they were of opinion that it was in all its provisions repugnant to the Laws of England.

The case is however very different when the Act is proposed to be a second time prolonged, and thus assures the appearance and character of a permanent law, although its recital still profess a temporary object; since there can be no period of time anticipated, so long as there remains a Convict population within the Colony, when, if not now, a period at which the Legislative Council in their preamble to the present Act no longer state the same necessity or state of the Colony to exist, the character of the act may be more assimilated to the Laws of England.

I would also add that, since the passing of the Act 11th Geo. IV, No. 10, the political and moral character of the people of the Colony must necessarily have undergone considerable changes from the arrival in it of free Emigrants to the number (according to official returns laid by Your Excellency before the Council) during the Years 1830, 1831, 1832, and 1833 of 5,457 persons, and in consequence of the increase of the free population born within the Colony during those Years. Referring to the last census taken on the 2nd of September, 1833, and laid by Your Excellency before the Council, it appears that at that period the total number of free persons within the Colony was 36,318, which number has been since

augmented by fresh arrivals; these latter are so considerable as reasonably to claim for them that the Laws of England shall not be departed from beyond the necessity of the case, arising from the difference of circumstances between the two Countries.

And, notwithstanding that I acknowledge the elements of which the general body of Society in New South Wales is composed to be such as to require the most prompt and vigorous laws for apprehending and bringing offenders to Justice, and for the protection of those concerned in doing so, Yet if that can be done, as I am of opinion it may, upon principles which are not repugnant to the Constitutional Laws of England, the necessity does not exist for departing from them.

I have, &c.,

W. W. BURTON.

A true Copy.

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Opinion by
W. W. Burton
of repugnancy
act to laws of
England.

[No. 13] THE following is a Summary of the remarks of Mr. Forbes, Chief Justice of the Supreme Court, upon the representations of Mr. Justice Burton against the Act of the Governor and Council of New South Wales, commonly called the Bushranger's Act, as delivered by him before the Legislative Council.

Remarks by
F. Forbes
on opinion
expressed by
W. W. Burton.

WE are called upon to reconsider the Law, which has lately passed the Legislative Council, in consequence of the representations made by Mr. Justice Burton, in conformity with the mode of proceeding pointed out by the 22d Section* of the New South Wales Act (9 Geo. IV, C. 83). His Honor is of opinion that the local Act of the Governor and Council is repugnant to the Laws of England. The Act of Parliament does not require the Judge, who may consider the proposed Law as consistent with the Laws of England to express his assent to its legality, but it may be fairly assumed, from the Silence of the two other Judges of the Supreme Court, that they do not entertain the Same opinion upon the proposed Law as Mr. Justice Burton. I may be permitted to say in this place that Mr. Justice Dowling concurs with me in opinion that, under the circumstances of the Colony as set forth in the preamble of the Act of the Governor and Council, and with the Judicial knowledge we have that New South Wales is appointed by His Majesty with the Sanction of Parliament as a place for the reception and safekeeping of transported felons, the local Act is not repugnant to the Laws of England, according to the legal meaning of the term, as it appears to us to have been intended to be used in the Act of Parliament. It is in this particular only that we differ from our respected colleague. If by the word "repugnant" be intended every actual difference between any two Laws, then it is admitted that the local Act of the Governor and Council is different from any existing law in England. But I am of opinion that this is putting much too limited a meaning upon the word, and restraining it within much narrower bounds than were contemplated by Parliament. The word itself is not new in a legal sense. Sir William Blackstone, in speaking of the English Plantations, Says their constitutions depend upon the respective Commissions issued by the Crown to the Governors, under the authority of which provincial Assemblies are constituted with the power of making local ordinances, *not repugnant to the Laws of England*—*Com. Vol. 1, page 109* The

* Note 132.

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clause of the New South Wales Act is in strict keeping with the constitutional Laws of the Colonies, as it is laid down by Judge Blackstone; and I think it is not going too far to hold that Parliament, in applying a word of established use and signification in other Colonies to the constitution of the Legislature of this Colony, must be presumed to have intended to apply it in the sense in which it had been received in the other Colonies, and recognized by His Majesty in Council. By referring to the numerous Laws which have been passed in the American Colonies, particularly such as relate to Slavery, and the discipline of Slaves, it will be found impossible to escape the conclusion, either that such Laws are repugnant to the letter of the English Law, or that the term is received by the Colonial Courts and by the King in Council (whose assent is expressly or impliedly given to every Colonial enactment, before it becomes a complete Law) under a different acceptation from that contained in the representations of the learned Judge, which are now before the Council. Forming my opinion upon what appears to have been the usual interpretation of the word *repugnant*, as put upon it by the Legislatures and Courts of the elder Colonies, and the Crown Lawyers to whom their enactments have been submitted, and applying my own mind to discover what I think the Imperial Parliament must have intended by the use of it in the Act which creates a Legislative power to meet and provide for the unforeseen exigencies and wants of this remote Colony. I conceive that the word was intended to convey a meaning to this effect; that, in making laws "for the peace, welfare, and good Government of the Colony," the Governor and Council shall take into their consideration the circumstances of the particular matter which requires Legislative provision, and make such a Law as may remedy any particular mischief, consistently with the general principles of the laws of England. I am aware how difficult it is to lay down an abstract rule for the interpretation of Acts of Parliament and that the meaning, I have affixed to the particular clause referred to, is open to objection. I would be understood however to confine it to the Class of legal enactments properly remedial, because the Act of the Governor and Council is a remedial Act or Ordinance. In the particular local law now under consideration, the mischief which is intended to be remedied is recited; it presents a State of Society so widely differing from that of the parent State, as obviously to require a corresponding difference in the Law. The facts set out by the local Legislature, we are bound to assume to be true; and the question is, whether the Laws of England for restraining and preventing the Commission of crime by persons in any degree resembling in condition the transported convicts in New South Wales are sufficient. As matter of fact, the Legislature have declared that they are not sufficient; and every Man, who has local experience of the great number of Convicts who are always at large, and have no other mode of subsistence than such as may be acquired by plunder, of the facilities to escape and concealment, which are supplied by the uncleared forests and trackless retreats of the Colony, of the previous habits and reckless characters of the Convicts, and above all, of the frequency and malignancy of the Crimes which are sought to be prevented and repressed, must concur with the Legislature in thinking that the actual State of England presents

no parallel with the actual State of New South Wales; and that the existing Laws of England are not calculated for the existing condition of this Colony, and are not sufficient for the protection of the Inhabitants. This is the particular mischief which was required to be remedied. Then the question arises, are the Governor and Council clothed with sufficient power to meet the actual state of the Colony, and to pass a coercive law, sufficient for the protection of the Inhabitants. Assuming my interpretation of powers delegated to them by Parliament and of the true meaning of the term repugnant to be correct, I think that they do possess the powers they have exercised, and that the law they have passed does not go beyond what the principles of their constitution will allow; and what the British Parliament, prescribing a similar limitation upon their own powers, would have passed in perfect consistency with the general Laws of England, under a similar state of things in any part of the Empire.

It is not necessary for me, on this occasion, to follow the several arguments of Mr. Justice Burton, beyond the preliminary question of repugnancy. If the law itself be not repugnant to the Laws of England, under the state of facts recited in the preamble, then it is competent to the Governor and Council, in passing the Law for the Apprehension of Convicts unlawfully at large and the suppression of robbery and house breaking, to protect the persons enforcing such law against vexatious proceedings, wherever they have acted *bona fide* and upon reasonable grounds of suspicion. I apprehend it to be a clear principle that, wherever the law authorizes one man to apprehend another for a particular offence, that he may do so wherever a reasonable ground of suspicion appears that the party apprehended has committed such offence, although it should afterwards turn out to be unfounded. I am not aware of any distinction between a Constable and any other person, where the Law gives equal authority to both to apprehend. The whole of the objections of His Honor upon this point are as applicable to the Vagrant Laws of England, as they are to the Ordinance of the Governor and Council. The present Vagrant Act of Parliament (3d Geo. IV, C. 40) which embodies and consolidates the provisions of the previous Acts, specifies certain cases of vagrancy, such as usually occur in England; it imposes upon the persons accused the obligation of giving "a satisfactory" or "a good account of themselves" (as it is to be presumed) to the person making the enquiry or apprehending such persons; it authorizes "any person whatsoever, without any Warrant for such purpose," to apprehend any other person offending against that Act; and it enables the person, who may be sued for any thing done under the Act, to plead the General Issue, and give the special matter in evidence in his defence; and, if such person shall be exculpated, it entitles him in the discretion of the Court to treble Costs. The local Act does nothing more; the details differ in some particulars from the Vagrant Act, but there is no difference in principle; one is adapted to the state of facts in one Country, the other to the State of facts in another Country; the English Act provides a remedy co-extensive with the mischief in England; the local Act provides for a more extensive local mischief. Taking into consideration the actual State of Society in England, and the actual condition of the people

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of this Colony, and comparing with them the Vagrant Laws of the former, and the law for apprehending Convicts unlawfully at large and suppressing Highway Robbery in the latter, and also bearing in mind that the end and object of all Laws is the protection of Society, I do not think that the local ordinance has gone beyond the principle of the Imperial Act, or that the Governor and Council have, in any degree, exceeded the just limits of their power.

FRANCIS FORBES,
Chief Justice of the Supreme Court.

ENCLOSURES with Major General Bourke's Despatch No. 89,
15 Sept., 1834.

- Appendix B, Relating to the 5th Wm. IV, No. 10, the Interest Act.
1. 30 May, 1834, Votes and Proceedings of Legislative Council. Governor's Minute. Bill laid on the Table.
 2. 4 June, 1834, Votes, etc. Bill referred to Sub-Committee.
 3. 2 June, 1834, Letter from Mr. Justice Burton.
 4. 10 June, 1834, Votes, etc. Report progress.
 5. 12 June, 1834, Votes, etc. Report received. Report with Minutes of Evidence.
 6. 18 July, 1834, Votes, etc. Bill to be read a second time on a day mentioned.
 7. 25 July, 1834, Votes, etc. Bill committed and amended. Bill as amended.
 8. 30 July, 1834, Votes, etc. Bill re-committed.
 9. 5 August, 1834, Votes, etc. Bill passed.
 10. Act.
 11. 22 August, 1834. Votes, etc. *Mr. Justice Burton's representation.* Vote of adherence.

[*These were all papers, printed in the "Votes and Proceedings" of the legislative council, excepting Mr. Justice Burton's representation, which follows:—*]

MR. JUSTICE BURTON TO GOVERNOR BOURKE.

Sir,

Sydney, 25th August, 1834.

Opinion by
W. W. Burton
of repugnancy
of usury act
to laws of
England.

I have now the honor to transmit to your Excellency the grounds of my opinion contained in my letter to Your Excellency of the 19th Instant, that the provisions of the Local Act, 5 Wm. IV, No. 10, entitled, "An Act for removing doubts respecting the application to New South Wales of the Laws and Statutes of England relating to Usury, and to limit and define the rate of Interest which may be recovered in cases where it hath not been previously agreed on between the parties," are repugnant to the Laws of England, which are as follows:—

First. "That the provisions of that Act are repugnant to the Statute of 12 Anne, Stat. 2, C. 16, whereby it is enacted, That no person shall take directly or indirectly, for loan of any Monies, wares, merchandise, or other commodities whatsoever, above the value of five pounds for the forbearance of One hundred pounds for a Year, and so after that rate for a greater or lesser Sum, or for a longer or shorter time."

Secondly. I am of opinion that the provisions of that Act are repugnant to the Statute of 9 Geo. IV, c. 83, upon the following grounds,

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1. That the Stat. 12 Anne, Stat. 2, c. 16, above referred to, was a Statute "in force within the Realm of England at the time of the passing of the Stat. 9 Geo. IV, c. 83."
2. That by the 24th Section of the last mentioned Act, it is enacted, "That all Laws and Statutes in force within the realm of England at the time of passing that Act" (not being inconsistent therewith, or with any Charter, or Letters Patent or order in Council which may be issued in pursuance thereof) shall be applied in the administration of Justice in the Courts of New South Wales and Van Diemen's land respectively, so far as the same can be applied within the said Colonies.
3. That I am not aware of any reason why the Stat. 12 Anne, Stat. 2, c. 16, could not at the time of the passing of the Stat. 9 Geo. IV, c. 83, or at the time of passing the Local Act now under consideration, be applied within the Colony of New South Wales, and the preamble of the act states no such reason, and the object of it is to prevent the application of that Statute in the administration of Justice in this Colony.

Opinion by
W. W. Burton
of repugnancy
of usury act
to laws of
England.

I have the honor to annex hereto, as containing my further views on this Subject, a Copy of my Letter* to your Excellency dated the 2d June last, respecting the provisions of a Bill then laid by Your Excellency before the Legislative Council, "for removing Doubts respecting the rate of Interest which may be recovered in any Action or Suit in any Court of this Colony."

I have, &c.,

A true Copy:—E. DEAS THOMSON, Clk., Col. W. W. BURTON.

GOVERNOR BOURKE TO RIGHT HON. E. G. STANLEY.

(Despatch No. 91. per ship Harmony; acknowledged by right hon. C. Grant, 24th April, 1835.)

Sir, Government House, 17 Sept., 1834.

17 Sept.

Notwithstanding the intention expressed in my Despatch of the 3rd Augt., 1833, No. 59, of omitting the office of Collector of Internal Revenue in the estimates for 1835, I have the honor to inform you that I found I could not dispense with the services of Mr. Macpherson but at the risk of serious inconvenience and loss to the Public. The Collection of Arrears due on Sales of Crown Lands and Quit Rents and the management of the Sales of land under the present Regulations are matters of the highest importance, which in my opinion no person in the Colony can manage so advantageously as Mr. Macpherson. I believe I may safely assert that to remove this officer for some time to come would prove injurious to the public interest, and I therefore venture to indulge a hope that you will be pleased to approve of his being still retained in employment. I have, &c.,

Inability to
abolish office
held by
W. Macpherson.

RICHD. BOURKE.

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GOVERNOR BOURKE TO RIGHT HON. E. G. STANLEY.
(Despatch No. 92, per ship Harmony; acknowledged by
lord Glenelg, 20th June, 1835.)

Sir, Government House, 18 September, 1834.

I have to acknowledge the receipt of your Despatches, dated respectively 8 April last, No. 73, and 23 May last, No. 83, on the subject of Emigration as aided by the Bounties and advances supplied from the Land Revenues of this Colony.

I have caused notices to be published of the expected arrivals of the female Emigrants mentioned in the former Despatch, and have no doubt of their being readily employed. You will have perceived, by my Despatch of the 21st Janry. last, No. 4, which will probably come to hand before the sailing of either of the Vessels to be despatched during the current year, that I was unable to give as satisfactory an account of the Emigrants by the Layton, as I could have wished. Important as this subject is to the Colony and to the credit and permanence of the plan of Emigration now adopted, I can have no doubt that His Majesty's Government will employ all practicable means to ensure a selection from the candidates for assistance of those whose habits of life will be likely to improve the community, to which they are transferred.

With respect to the financial part of the subject, I have the honor to report that the available balance in the Treasury on the 1st July, 1834, arising from Crown Lands, was £27,405 19s. 1½d. I have to observe however that the necessities of the Commisist. will require to be supplied from the same fund, unless some measure be taken by His Majesty's Government to provide for them in some other way.

If there should be no drain on this account, a further sum of £15,000 will in all probability be disposable at the end of the year. It would certainly be advisable to devote the whole produce of the Crown Lands to Emigration and to take active measures for inducing the description of laborers, mentioned in your Despatch of the 8th April, namely, young and married agricultural laborers, to come out. Building mechanics, if of sober habits, would be a still greater acquisition in the Colony in its present state. This Government is restrained from commencing many public works, which are much required and of which the condition of the Colonial Treasury would justify the undertaking from a consideratn. of the increased difficulty that would be occasioned to private persons in the erection of their houses and farm buildings by any great demand for public purposes on the labor of the few mechanics in the Colony, whether free or bond. By the introduction of Mechanics of the foregoing descriptn. in the

Despatches
acknowledged.

Necessity
for proper
selection of
immigrants.

Available
balance of
land revenues.

Agricultural
labourers
and building
mechanics
required.

year 1831, the Revd. Dr. Lang rendered a most important service to this Settlement, and it would give me great satisfaction to learn that his exertions were again directed under the auspices of H.M. Govt. to the same object.

In obedience to your commands as signified in the latter of the despatches, to which I have now the honor to reply, I am concerting measures with the Collector of Internal Revenue for enforcing by legal process the obligations of those Emigrants, who have received loans from His Majesty's Government. I am sorry, however, to repeat my conviction of the impossibility of obtaining any satisfaction from the far greater number, even though the process should be carried the length of imprisonment, and my apprehension that the amount actually obtained will not compensate the mischiefs that will be occasioned by a resort to compulsory measures.

I have, &c.,

RICHD. BOURKE.

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Improbability
of collecting
advances to
immigrants.

GOVERNOR BOURKE TO RIGHT HON. E. G. STANLEY.

(Despatch No. 93. per ship Harmony: acknowledged by right hon. C. Grant. 27th April, 1835.)

Sir,

Government House, 19 September, 1834.

19 Sept.

I think it right to transmit to you the copy of a Petition to His Majesty, of which the History is somewhat extraordinary. It was drawn up, as I am informed, in the month of January or February last by five or six settlers in the Hunter's River District, and has since that time been clandestinely carried about and signatures solicited with much caution and perseverance by the principal agents in a proceeding, which may, I think, be more properly called a conspiracy than the exercise of the open and constitutional right of Petition. The document is said to have obtained many signatures during the eight months it has been in circulation; but this is mere matter of conjecture with the Public and is only known with certainty by those who have the custody of the paper. Frequently, during the period in question and within the last few days, this Government has been informed through one of the newspapers that the Petition is about to be transmitted, and a change in the administration of the Colony is confidently anticipated as the result of the appeal to His Majesty. I do not, however, believe that it has as yet been sent from hence, though probably the contrivers do not intend to take such a step openly, as it might occasion a declaration of public opinion destructive of their object. It is probable however that copies have been sent to England for circulation in quarters, where it is hoped an impression unfavorable to my Government

Preparation
of petition to
H.M. the King
at Hunter river.

1834.
19 Sept.

Mis-statements
and false
assertions
in petition.

may be produced. I think it proper therefore to lay before you the Copy, which I have very lately obtained; and, though I shall not take up your time by exposing in detail the several misrepresentations it contains, as it is possible the original document may never be presented, yet I am bound to declare, what at the proper time I shall be ready to prove, that it is full of the grossest mis-statements and rests upon an assertion contradicted by the public voice and by the tranquil state of the Colony. Those who have been long acquainted with the country assure me that at no time do they recollect the security of person or property to be less endangered by the crimes of the Convict population, notwithstanding the great augmentation of prisoners since my accession to this Government; whilst the Reports from the Police Magistrates, which I had the honor to transmit with my Despatch of the 15 Janry. last, No. 1, assert the efficiency of the law, which it is the object of the Petition to decry.

I have, &c.,

RICHD. BOURKE.

[Enclosure.]

Petition from
settlers at
Hunter river
re control of
convicts.

THE humble Petition of the undersigned Landholders, Employers of Convict Labor and other Free Inhabitants of the Districts of Hunter's River, in the Colony of New South Wales,

To the King's Most Excellent Majesty.

Most humbly sheweth,

That your Petitioners approach your Majesty with the assurance of the most sincere attachment to your Majesty's Person and Government, and with the expression of their gratitude for the liberal policy with which these Colonies have been governed by Your Majesty and your Royal Predecessors.

That your Petitioners are suffering in their property and peace of mind from the insubordinate state of the Convict Population, who of necessity form the great bulk of their Servants. This insubordination your Petitioners ascribe to the insufficiency of the Act of the Colonial Legislature the 3rd William IV, No. 3, together with the lax discipline in the different Government Establishments where Convicts are employed.

That, on the arrival of His Excellency Governor Bourke, the Convicts were governed by an Act of the Colonial Legislature 11 George IV, No. 12, passed in March, 1830, to continue for a period of four years. That this Act maintained a strict discipline necessary for the Government of such a class of people, effectually checking their evil inclinations and securing them against ill treatment, at the same time that it upheld the due authority of the Masters, and gave security to his person and property.

That, about nine months after the arrival of His Excellency Governor Bourke (September, 1832), the Act of Council now in force was passed, which repealed the 11 George IV, No. 2, after it had existed eighteen months only instead of four years, the period for which it had been enacted. Thus your Petitioners are induced to consider the repeal of this Act as hasty, unnecessary and premature,

hasty because His Excellency had been too short a period in the Colony to have formed a correct opinion of its merits; unnecessary because there were not any complaints made of its working badly; and premature in as much as it had yet two years to exist.

1834.
19 Sept.

Petition from
settlers at
Hunter river
re control of
convicts.

That your Petitioners, on the 22nd of August last, presented two Petitions* to His Excellency the Governor and the Honorable the Legislative Council, complaining of the inefficiency of the present Law and praying for relief. On the 28th of the same month, His Excellency laid a Minute before the Legislative Council to the following effect, viz. :—

“Petitions having been presented to the Governor and Council complaining of the operation of the Act 3rd William IV, No. 3, I propose to enquire into such of the allegations as appear important.”

And then suddenly adjourned the Legislative Council for nine months, or until May next, which Minute and which proceeding of His Excellency your Petitioners humbly consider to be virtual denial of proper enquiry into the truth and justice of their complaints; And now, with a further experience of six Months, and the numerous instances of outrage lately perpetrated, together with a jail crowded with criminals of the deepest dye, requiring an additional Session of the Criminal Court to clear it of its inmates, have more fully confirmed Your Petitioners in their opinions as set forth in the said Petitions.

That, as all hope of redress in this Colony is at end, and as every delay must extend and confirm the evil, your Petitioners humbly approach your Majesty with the earnest Prayer.

That your Majesty will be graciously pleased to vindicate their right to have their Petitions considered by His Excellency the Governor and the Honorable the Legislative Council, when their enactments are found to be injurious. And that your Majesty will order immediate enquiry to be made into the truth and importance of the allegations brought forward by your Petitioners, and, if founded in Justice, will be graciously pleased to grant relief. And your Petitioners will ever pray, etc.

[Unsigned.]

GOVERNOR BOURKE TO RIGHT HON. E. G. STANLEY.

(Despatch marked “Separate,” per ship Harmony.)

Sir, Government House, 19th Sept., 1834.

In my Despatch of this date, I transmitted the copy of a Petition to the King of the origin and progress of which I gave a short account. I now take the liberty of laying before you a Pamphlet,† containing a refutation of the charges alleged in that Petition, drawn up with perfect truth and great clearness. Although it cannot be considered as an official document, I have thought it right to furnish you with a paper which may safely be consulted for information, if at any time the matter of the Petition should be brought into discussion.

Transmission
of pamphlet
in reply to
petition.

I have, &c.,
RICHD. BOURKE.

* Note 136.

† Note 137.

1834.
20 Sept.

GOVERNOR BOURKE TO RIGHT HON. E. G. STANLEY.
(Despatch No. 94, per ship Harmony; acknowledged by
lord Glenelg, 31st August, 1835.)

Sir, Government House, 20 Sept., 1834.

Refusal to
transmit
printed
pamphlet from
J. Mudie.

An application was made to me a few days ago by a Mr. James Mudie, a Settler in the Hunter's River District and Justice of the Peace, to transmit to you a pamphlet* which he has had printed here and stated he was about to publish in Sydney and London. As it appeared to me that a printed pamphlet on the eve of publication was not such a document as should be laid before a Minister of the Crown for his consideration and reply, I declined transmitting it, and directed the Colonial Secretary to return it to Mr. James Mudie. Independently of the improper form in which it was proposed to lay this composition before you, the contents are not such as can with propriety be considered of official import. They consist of scraps from Newspapers and criticisms on the Colonial Government mixed up with the history of a transaction, occurring in November last, in which Mr. James Mudie is concerned; but with respect to which I could not discover that anything was sought from His Majesty's Government. It is, in truth, a mere party publication, the proof sheets of which have been handing about the Hunter's River District for some months. If I had forwarded this pamphlet, I could not with decency have refused to transmit the reply with which it is sure to be followed, nor any other publication emanating from the party politics of the Colony.

But, though I thought it my duty to decline forwarding, as an official document, the pamphlet of Mr. Jas. Mudie, I should have been glad to have obtained a copy from the publisher to have laid before you. It is probable, however, that none will be put into general circulation until the vessel sails for England which will convey this Despatch. By that conveyance, you will probably receive a copy from Mr. James Mudie himself.

Robbery
of house of
J. Mudie by
assigned
servants.

The transaction, to which it principally refers, is briefly this: Some of Mr. James Mudie's assigned servants, thinking themselves badly treated, absconded from his farm in the Hunter's River District, and, forming a gang, returned to rob the House, and with the intent, as it appeared, to murder the overseer (or partner I believe I should call him) of Mr. James Mudie. The conduct of the gang was violent and atrocious; and, being taken, six in number, tried and convicted, five were executed on Mr. James Mudie's Farm, and one sent for life to Norfolk Island. On their trial, they accused their master and the Magistrates of the district of continued ill-treatment, and, by the earnestness and apparent sincerity of their manner, obtained in a very

* Note 138.

remarkable degree the sympathy of the Public. Without at all delaying the execution of the guilty persons, whose crimes would not have been pardonable even if what they alleged in extenuation had been true, I thought it right to send the Solicitor General and Princl. Supt. of Convicts to enquire into the truth of the complaints. The Gentlemen, whom I Commissioned, discharged this duty with the greatest propriety and laid before me Several depositions taken on the spot. I found on a careful perusal of them that, although it was evident Mr. Jas. Mudie did not treat his servants with the same consideration for their wants and comfort which the neighbouring settlers evinced, yet upon the whole he had not in any remarkable degree transgressed the Regulations of Government. I therefore desired the Colonial Secretary to address to him and to his Partner Mr. John Larnach an official letter, containing some comments upon facts which the investigation had elicited. I have the honor to transmit a copy,* as well as copies of the depositions to which I have referred. I think it will be admitted by you, Sir, upon perusing these documents, that no great severity of animadversion was exercised in observing upon the conduct of Mr. James Mudie and Mr. John Larnach.

1834.
20 Sept.

Charges by assigned servants against J. Mudie and J. Larnach.

With respect to the other matters which Mr. James Mudie has introduced into his pamphlet, they are not worth replying to in detail. They are for the most part accusations of misgovernment, which have often been repeated by a newspaper, the organ of a small party opposed to my administration, but, being contradicted by facts, have never obtained any great share of credit. The principal charge is the same as that made in the Petition from the Hunter's River District, which I have had the honor to bring under your notice in my despatch of the preceding number. I cannot but regret that I should have found it necessary to trespass upon your time by either of these communications. As it is impossible, however, in a public station altogether to avoid misrepresentation or to Escape the malicious attempts of party spirit, so it is a duty, which I owe no less to His Majesty than to my own reputation, to neglect no proper opportunity of vindication.

Charges of mal-administration against R. Bourke.

I have, &c.,

RICHD. BOURKE.

GOVERNOR BOURKE TO RIGHT HON. E. G STANLEY.

(Despatch No. 95, per ship Harmony.)

Sir,

Government House, 21st Sept., 1834.

21 Sept.

I have the honor to forward a Copy of the Printed acts and ordinances of the Governor and Council of New South Wales for the year 1833.

Transmission of acts of council.

* Note 138.

1834.
21 Sept.
Cause of delay
in transmission.

Its late transmission has been occasioned by delays on the part of the Contractor* for the printing, which rendered it necessary, after much forbearance, to call in the assistance of another person. Every effort shall be made to avoid a similar delay for the future.

I have, &c.,
RICHD. BOURKE.

GOVERNOR BOURKE TO RIGHT HON. E. G. STANLEY.
(Despatch No. 96, per ship Harmony.)

22 Sept.
Transmission
of letter from
T. L. Mitchell.

Sir, Government House, 22 Sept., 1834.
Referring to my Despatch of the 5th May last, No. 45, in which I stated that I would take the earliest opportunity of communicating the name and address of the person with whom the Surveyor General intended to place his Maps for sale, subject to the approval of His Majesty's Government, I have now the honor to forward a copy of a letter from Major Mitchell communicating this information.

I have, &c.,
RICHD. BOURKE.

[Enclosure.]

SURVEYOR-GENERAL MITCHELL TO COLONIAL SECRETARY MACLEAY.

Publisher
of map by
T. L. Mitchell.

Sir, Sydney, 23rd Sept., 1834.
With reference to that part of your letter No. 34/466, which requires me to inform His Excellency the Governor with whom in London I propose to place my engravings for publication,† that permission may be conveyed to him from the Secretary of State for that purpose, I have the honor to state for His Excellency's information that I have appointed Mr. James Gardner, mapseller in Regent Street, to publish the Map for me in London, and that C. Cassaigne, Esqre., of No. 17 Salisbury Street, Strand, is my Agent for transacting any business connected with it.

I have, &c.,
T. L. MITCHELL.

GOVERNOR BOURKE TO RIGHT HON. E. G. STANLEY.
(Despatch No. 97, per ship Harmony; acknowledged by
lord Glenelg, 28th October, 1835.)

23 Sept.
Members of
crew of barque
Harriet
murdered and
imprisoned
by Maoris.

Sir, Government House, 23rd Sept., 1834.
A representation having been made to me by Mr. John Guard, whaling Master of the Barque Harriet, wrecked on the Coast of New Zealand on the 29th April last, that twelve of the crew, who were saved from the wreck, had been massacred by the Zealanders on shore, and that nine men with Mrs. Guard and two children were detained in captivity by them, I called a meeting of the Executive Council to consider what measures were to be adopted under the circumstances. A Minute of the

* Note 139.

† Note 106.

proceedings of Council on the occasion together with the narrative of Mr. Guard are transmitted herewith.

1834.
23 Sept.

In conformity to the opinion expressed by Council, I concerted measures with Captn. Lambert of H.M. Ship Alligator then in Port Jackson for proceeding to demand the restoration of the Captives, directing an officer* and 25 R. and F. of the 50 Regt. to embark on board his Ship, and placing under his command the Colonial Schooner Isabella with a further detachment of the 50th Regt. on board consisting of two officers,† and 40 R. and F. These vessels sailed from Port Jackson on the _____, since which sufficient time has not elapsed to allow of my being informed of their arrival on the Coast of New Zealand.

Expedition sent to rescue captives.

I have to add that the Council was not unanimous in the advice proffered on this occasion. The Colonial Treasurer, Mr. Riddell, dissented from the opinion of the majority of the Council; but, having omitted to enter his reasons on the minutes within the prescribed time, he laid before me a memorandum which I have the honor to transmit. I transmit also the copy of a Letter I addressed to Captn. Lambert, by which you will perceive that I have considered the principal objection made to the expedition by Mr. Riddell and endeavoured to avert the mischief, which he apprehended, by explaining fully to Captn. Lambert the opinions of the majority of the Council with regard to the course most proper to be adopted under the difficult circumstances of the case.

Dissent of C. D. Riddell from opinion of council.

You will observe that the Council have recommended that I should represent to His Majesty's Government the urgent necessity of having a ship of War permanently stationed in these Seas for the protection of British and Colonial Commerce and the repression of the numerous outrages which are so frequently committed both by Europeans and natives on the Shores of the South Sea Islands. I cannot too strongly support the opinion of the Council on this subject; and I am prepared to go the length of recommending the British Resident to be withdrawn from New Zealand, and the British Subjects settled there to be warned that they are altogr. without the pale of British protection, unless at least one ship of War be stationed permanently in these seas.

Necessity for ship of war in south seas.

I have, &c.,

RICHD. BOURKE.

[Enclosure.]

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

* Lt. Gunton.

† Captn. Johnson, Ensign Wright.

1834.
29 Sept.

RIGHT HON. T. SPRING RICE TO GOVERNOR BOURKE.
(Despatch marked "Separate and Confidential," per ship
Duchess of Northumberland.)

Sir, Downing Street, 29th September, 1834.

Tickets of leave
to be granted
two convicts
on arrival.

I do myself the honor of transmitting to you, for your Information, the Copy of a Statement forwarded to me by the Commissr. of Stamps, relative to two Prisoners named Zachariah Shaw and Robert Clayton, and the Son of the latter, who were convicted at Dublin in February last of Forgery, and who sailed from thence on the 22d Instant in the Ship "Royal Admiral."

Under the peculiar circumstances attending the case of these Prisoners, as explained in the accompanying paper, I am to convey to you the Commands of His Majesty that, upon their arrival in the Colony, you will grant to them a "Ticket of Leave," or such other permission as will enable them to proceed with their families to any part of the Colony which they may prefer; But, in granting to them this privilege, especial care must be taken that the parties do not under any circumstances leave the Colony.

I am, &c.,

T. SPRING RICE.

[Enclosure.]

————— TO RIGHT HON. T. SPRING RICE.

Special
concessions
granted to
stamp forgers
at Dublin.

"Two persons, named Zachariah Shaw and Robert Clayton, and the Son of the latter, were convicted at Dublin in February last of forging and uttering forged Stamps, and were sentenced to transportation for life. Under peculiar circumstances, of which the Government is already in possession, it was agreed upon, with the consent of Lord Althorp and by the advice of the Attorney and Solicitor General for Ireland, that, on these persons pleading guilty to the Indictment, they should be sent out to New South Wales, together with the families of the two former, as Cabin Passengers, and that, on their arrival, they should be permitted to go to any part of the Colony as free Settlers.

Since their conviction, serious Disclosures have been made by them (particularly by Robert Clayton), which are considered very useful in the prevention of Forgery; and it has been determined upon to give them £100, to be divided between them on their arrival at New South Wales. This Sum has been sent to the Governor by the Surgeon of the "Royal Admiral," in which Vessel the parties with their families sailed from Dublin on the 22d Inst.

—————
UNDER SECRETARY HAY TO GOVERNOR BOURKE.

(Despatch per ship Duchess of Northumberland; acknowledged
by Sir Richard Bourke, 8th May, 1835.)

30 Sept.

Sir, Downing Street, 30 Sept., 1834.

In reference to Mr. Stanley's Despatch to you, No. 73 of the 8th April last, apprising you that a vessel would be despatched with Female Emigrants to New South Wales during the

present Month, I have now the honour to acquaint you that the Ship "Duchess of Northumberland" has been engaged by His Majesty's Government for the conveyance of 300 young Women, at a cost to the Govt. of £3,600, leaving each Emigrant, as in the case of previous Ships, to furnish £5 each, or to give a Promissory note for the payment of £6 in the Colony.

1834.
30 Sept.

Ship engaged for female immigrants.

The enclosed Lists contain the names and ages of the young women, whom it is intended should be sent in this vessel; and they have been Selected in Ireland by Committees formed in Dublin and Cork for the especial purpose, at which Ports it has been arranged the Emigrants should be embarked.

Selection of immigrants per ship *Duchess of Northumberland*.

I am therefore directed by Mr. Secretary Spring Rice to request that you will pay to Mr. Robert Jobling, Commander of the "Duchess of Northumberland," the Sum of £1,800; and that you will also pay into the Military Chest a similar Sum, which will be the amount of that portion of the freight of the "Duchess of Northumberland" (vizt., £3,600), which has been advanced by the Treasury in this Country.

Payment for freight.

In conclusion, I beg to acquaint you that this Ship will be the last, it is intended to despatch with female Emigts, to New South Wales during the present year.

I am, &c.,

R. W. HAY.

[*Endorsement on original.*]

P.S.—In consequence of the number of Girls who have seceded at the last minute, it is impossible to send a list of those who have embarked, the wind being fair, and the ship under weigh.

Inability to send list of immigrants.

As, However, the Ship has been engaged for the conveyance of 300 Emigts. and must be paid for that number whether they embark or not, the List in question is not absolutely essential, but at all events, it shall be sent in the next Ship which Sails.

J. D. PINNOCK of the Col. Dept.

Cork, Wednesday Eveng., 15th Octr., 1834.

RIGHT HON. T. SPRING RICE TO GOVERNOR BOURKE.

(A circular despatch per ship Lady Nugent: acknowledged by Sir Richard Bourke, 6th August, 1835.)

Colonial Office, 1st October, 1834.

1 Oct.

I HAVE the honor to transmit to you herewith, for your immediate and attentive perusal, a Copy of the Report and Minutes of Evidence of a Select Committee of the House of Commons, appointed to enquire into the Military Establishments and Expenditure in the Colonies and Dependencies of the Crown.

Report of committee re military establishments and expenditure.

You will perceive, at the opening of their Report, how far the Committee's Enquiries have extended during the last Session, and as it is intended to carry into effect the recommendation

1834.
1 Oct.

contained in the conclusion of their Report, vizt., "that the Inquiry into the Military Expenditure and Establishments of all the remaining Colonies and Dependencies of the Crown may be resumed with as little delay as possible, and that a Committee may be appointed for that purpose early in next Session," I have now to call your serious attention to this important subject, so far as relates to the Colony under your control.

On a careful perusal of these Papers, it will readily occur to you how minute an investigation the late Committee instituted into all those Colonies and Dependencies of the Crown, which were brought under their consideration; there can be no doubt that its successor will pursue the same close line of Inquiry. I have to desire, therefore, that you will lose no time in preparing and forwarding to this Office the fullest information on every point, which can possibly come under the examination of the Committee, explaining clearly and with exactness the present state of the Military Establishments in the Colony under your Government, and suggesting any possible reductions which may be carried into effect, without detriment to the Public Service.

I have, &c.,

T. SPRING RICE.

GOVERNOR BOURKE TO RIGHT HON. E. G. STANLEY.

(Despatch No. 102, per ship Caroline; acknowledged by earl of Aberdeen, 16th April, 1835.)

Sir,

Government House, 1st October, 1834.

I have the honor to forward a Petition from the Trustees of St. Andrews' Scots Church and others praying for your sanction to the appointment of the Revd. John McGarvie as a second Presbyterian Chaplain for Sydney at such salary as you may be pleased to allow.

Mr. McGarvie is at present receiving an allowance of £100 per annum under the authority of Lord Visct. Goderich's Despatch of 12 Jan., 1831, No. 14, by which His Lordship directed that, in the event of the Presbyn. Settlers in any district in the Colony contributing from £60 to £100 a year to a minister of the Scotch national Church, the Governor should bring under the consideration of the Council the propriety of causing a similar sum to be paid to him from the Colonial Treasury, restricting however this permission at that time to two additional Clergymen. There were then two Presbyterian Chaplains paid by the Government, and stipends were afterwards allowed under the authority of Lord Goderich's Despatch to a third at Bathurst and to a fourth at Maitland. The Minister at Maitland died soon after his appointment; and, as the attendants at the Scots

Necessity
for detailed
information
for use of
committee.

Request for
appointment
of Revd.
J. McGarvie
as chaplain
at Sydney.

Presbyterian
chaplains.

Church in Sydney appeared very desirous that some allowance should be made to Mr. McGarvie to enable them the better to maintain his services at that place, and as no steps had been taken to supply the place of the Minister deceased at Maitland, I permitted Mr. McGarvie to receive for the present the sum before paid to the Chaplain at Maitland, thereby keeping up but not exceeding the number of Presbyterian Clergymen recognized by Lord Goderich.

1834.
1 Oct.

Employment
of Revd.
J. McGarvie
at Maitland.

What is now solicited at your hands by the Petitioners appears to extend beyond this to an addition to the number of the Presbyterian Chaplains of the Colony, since it cannot be intended that the assistance of government should be permanently withdrawn from Maitland, where it is certainly much more needed; and to the minister at which place, as soon as a fit person shall be appointed, I shall be prepared to recommend the restoration of the Salary now transferred to Mr. McGarvie.

Object of
petition.

The Church, at which Mr. McGarvie officiates, is erected as the Petitioners state by means of subscriptions aided by contribution from the Government of £500, which was made by virtue of the rule established by His Majesty's Government with reference to the building of places of worship, and in conformity with the intention expressed in the last paragraph of my Despatch of the 30th September, 1833, No. 76. I feel bound however to state that the project for building a second Scots Church in Sydney, in the present state of its population, chiefly originated in a dissention prevailing in the first, and that, did an unity of feeling prevail among the Presbyterians resident in Sydney, there would not appear to be at present any necessity for more than one Church for their accommodation or more than one minister for their instruction.

Erection of
second Scots
church at
Sydney.

Schism in
Presbyterian
church.

I take this opportunity of mentioning that an addition to the number of Presbyterian Chaplains is likely to be soon required to supply the wants of the Colony.

I have, &c.,

RICHD. BOURKE.

[Enclosure.]

[A copy of this petition is not available.]

GOVERNOR BOURKE TO RIGHT HON. E. G. STANLEY.
(Despatch No. 103. per ship Caroline; acknowledged by
earl of Aberdeen, 17th April, 1835.)

Sir,

Government House, 5th October, 1834.

5 Oct.

The Surveyor General having represented to me that additional assistance was required in the writing Branch of his Department for bringing up some arrears, but more especially for

1834.
5 Oct.

Temporary
clerks required
in office of
surveyor-
general.

completing and restoring some of the Records of this office which are in an imperfect or decaying state, I appointed the Auditor General, the Collector of Internal Revenue and the Assistant Commissary of accounts to form a Board for enquiring into the facts of the case. I have the honor to transmit their Report, from which it will appear that the current duties of the office afford full occupation to the present Clerks, and that the services of four additional Clerks at £100 per ann. for one year will be necessary for the occasional service required by the Survr. General, with whose opinion as to its essential nature the Board entirely concur.

I propose immediately to appoint the four temporary Clerks thus recommended, and beg leave to submit the measure for your approval.

I have directed that strict attendance from nine till five o'clock be required in the Department, as recommended by the Board.

I have, &c.,

RICHD. BOURKE.

[Enclosure.]

[*This report detailed the duties of each clerk by name.*]

GOVERNOR BOURKE TO RIGHT HON. E. G. STANLEY.

(Despatch No. 104. per ship Redman.)

10 Oct.

Sir,

Government House, 10th October, 1834.

Report by
T. L. Mitchell
re administra-
tion of office of
surveyor-
general.

In my Despatch of the 5th May last, No. 45, with which I transmitted an engraved map and a Report from the Survr. General of this Colony, I informed you that I had called on that officer to reply to the observations, contained in your Despatch of the 15th June, 1833, No. 17, immediately after its receipt here in the month of November of that year. The production of that map and Report may in a great degree account for the delay, which has occurred on the part of the Surveyor General in furnishing the required explanation; and I have now the honor to lay before you a very elaborate defence in answer to the charge of having misapplied or not sufficiently improved the means placed at his Disposal for the Service of his Departmt. It is not necessary that I should follow the Surveyor General through the whole of his explanation. It may be sufficient to observe that many of the duties, which his Department has been called upon by this Government or by his own direction to discharge, have been extensive and important, requiring much time and labor in their execution. Amongst these may be classed the Survey of Mountain Ranges and streams, which, if accurately

taken, comprise a large portion of the most valuable topographical details. I Concur indeed with the Surveyor General in representing that nothing, which can with any propriety be called a trigonometrical Survey of the Colony as compared with operations of the same kind formerly conducted in England by Mudge and Dalby and now in progress under Colonel Colby in Ireland, has been or could be attempted here. Nevertheless I have no desire to question the correctness of the Surveyor General's assertion that, by the combination of the points he has taken with the actual measurement of a large portion of the ground, a map has been constructed sufficiently correct for ordinary purposes. I should apprehend, however, that the small scale, on which it is laid down, has diminished its value to the residents of the Colony; but, from the Survey in the office of two inches to the mile, country or district maps of great and general utility may hereafter be produced. The matter of the Report now transmitted, upon which I have principally to remark, relates to the future establishment of the Surveyor General's Department and the regulations under which the several branches of its service are proposed to be conducted.

1834.
10 Oct.

Difficulty in trigonometrical survey of colony.

Criticism of size of map.

I will proceed to notice these in the order and under the heads adopted by the Surveyor General in his letter, commencing at the reverse page of fol. 15, entitled "means of performing the duties required."

The Survey Branch of the Establishment, as estimated for 1835, consists of One Surveyor General; One Deputy Survr. General; Two Surveyors; Twelve Assistt. Surveyors; Four Draftsmen.

Establishment of surveyor-general.

"This number," the Survr. Genl. observes, "will not be too large if the Survey be continued into the more remote and inaccessible parts of the Counties, which have been defined." This operation, I am inclined to think, is not necessary in its full extent for the mere purpose of filling up the map; but there are parts of counties, if not whole counties, which, being suited for location, it is desirable to divide into hundreds and parishes according to the King's instructns. I propose therefore, for this and other useful objects, to retain the Survey Branch at or near the strength of the foregoing detail for the next year.

Employment of staff.

The measurement of land, applied for to purchase, must, I apprehend, notwithstanding the objections of the Survr. General, be conducted for some time longer on the same footing as at present. The principal regulations for this service are contained in the Govt. notice* of the 1st Augt., 1831, prepared by Govr. Darling and approved by the Secretary of State. It will be seen, by reference to the first par. of that order, that, as soon

Measurement of lands for sale.

* Note 140.

1884.
10 Oct.
Measurement
of lands for sale.

Administration
of roads and
bridges.

Magisterial
jurisdiction
of assistant
surveyors over
ironed gangs.

as a parish has been regularly surveyed and described, the lands will be sold in conformity to the King's Regulations and nearly in the manner now proposed by the Surveyor General, until this arrangement is complete. I must protest against putting up to sale any land not previously measured and described, so as to enable this Govt. to put a Title Deed into the hands of the Purchaser upon his paying up the Purchase money within one month of the day of sale. To abandon this wholesome course would be to perpetuate the vast expense and inconvenience, to which the opposite practice in past times has exposed both the Govt. and the grantees of Crown Lands. Under the head of roads and bridges, the Survr. General has presented a distorted and rather unintelligible account of this branch of his Department owing, as I imagine, to his anxiety to remove from himself and his assistants the blame, which is generally but in many respects unjustly imputed to them on account of the slow progress made in the works under their charge. It might be supposed, from the Survr. General's letter, that duties were now expected of the Assistant Survr. of Roads unconnected altogether with the service for which he is engaged, and that he is required to perform the office of Hangman. Such, however, is not the fact. In order to prevent, if possible, the work of the convict gangs, whose labor he directs professionally, from being inefficiently performed or wholly neglected, the Asst. Surveyor is empowered, by the Colonial Act, 3 Wm. IV, No. 3, Sect. 28, to receive a complaint from an overseer, and to sentence an offender to 50 lashes, for the due infliction of which a Scourger is provided.

The Asst. Survr. is desired occasionally to see the punishment inflicted. It had been the practice in former administrations to appoint assistant Survrs. at remote stations to be Justices of the Peace, in order to enable them the more effectually to control the convicts then placed more immediately under their charge, as the employment of Supts. of Ironed Gangs had not taken place at that period. I had perceived that this appointment of assistant Survrs. to the Magistracy led them at times to the discharge of the general duties of a J.P. to the neglect of their own proper business. I therefore gave them, by the act I have referred to, only just so much authority as might be useful in procuring labor from the gangs. It is quite contrary to fact to suppose that this jurisdiction impedes the asst. Survrs. in the discharge of their professional duty. It has never been so represented to me; and in truth, by the Regulations for Ironed Gangs introduced in 1832; the Asst. Survrs. have been relieved from the charge of Supce., which, until then, wholly rested with them. At

no time have 500 men been shut up in any one Stockade, nor has the efficiency of their labor been much diminished by the necessity for keeping them safely while at work. Some diminution must no doubt be allowed as the effect of necessary precaution in this respect, but not to the extent set forth by the Surveyor General. If he had noticed the difficulty his Department has labored under on being required to provide stores by contract, which were formerly supplied by the Commissariat, arising from their want of practice and official knowledge of such details, as also the frequent failures of the Contractors, from which there resulted at times a great deficiency of proper tools and carriages on the works, he would have given a more clear and candid statement of the causes, which have led to a general complaint of the little work performed by the gangs. I have, in my Despatch of 15th Janry. last, No. 1, pointed out to you the difficulty of rendering this forced labor more efficient. From its very nature, such an attempt could never be eminently successful. No person should know this better than the Survr. General. When the Road Parties were remodelled in 1832, the arrangements, by which the number of gangs were reduced and the Salaries of overseers increased, were all made upon personal conference with him; and, at his suggestion, I have since allowed certain indulgences in the issue of food to artificers employed in Bridge Parties as an inducement to greater exertion. He might therefore have spared his laborious vituperation of arrangements, many of which were made under his own direction, and the defects of which he admits he knows not how to remedy.

1834.
10 Oct.

Delay caused
by contract
supply of stores.

Difficulty in
making forced
labour efficient.

The part of the system, in which he might have proposed an obvious and immediate improvement, is in the superintendence by his Department. Four Assist. Survrs. are not sufficient for the duties required of them. They might answer if a greater number of competent Sub-Inspectors could be procured, and if the Deputy-Survr.-General was employed by his Superior in frequent tours of Inspection. This officer, formerly in the Staff Corps, a gentleman of activity and abilities, is for the most retained in the office in Sydney, although willing to work, in a state of comparative idleness. It may be observed that neither his name nor office are mentioned by the Survr. General in this voluminous report.

Improvement
possible in
administration
of roads and
bridges by
surveyor-
general.

Town Surv'r's office, fol. 18.—I do not consider any change necessary in this branch of the Service, unless it be to afford some additional assistance to Mr. Lewis in the superintendence of the formation and repairs of the road adjacent to Sydney. His duty as Town Surveyor, requiring him amongst other things to report any encroachment on the streets, footways and vacant

Changes
proposed in
office of town
surveyor.

1834.
10 Oct.

Changes
proposed in
office of town
surveyor.

Crown Land in Sydney, necessarily occupies a large portion of time in a place where Buildings are rapidly rising and where the boundaries of property are not very well defined. I think therefore it will be necessary to relieve him from the Superintendence of the working gangs now under his charge. Mr. Russell was recommended to me by the Survr. Genl. about a year ago to measure the allotments of a large portion of Sydney then remaining to be done. His progress has not been rapid. I am not aware that Mr. Russell has been bred an Architect. I understood he had been employed under a Civil Engineer.

Colonial
architect.

Colonial Architect, fol. 18.—The circumstances, under which this office was established, are reported in my Despatch of the 3rd April, 1832, No. 46. It was subsequently annexed to that of the Survr. General by the command of Lord Goderich, conveyed in His Lordship's Despatch of 11 October, 1832, No. 133. Without any disparagement of Mr. Hallen's abilities, I must decline recommending him for the appointment of Civil Engineer. I have not seen any certificate from Mr. Telford to the effect stated by the Surr. Genl. I transmit a copy of a letter from Mr. Telford to Mr. Hay, which is the only official document in possession of this Government on the subject of Mr. Hallen's qualifications for employment. If Mr. Hallen should vacate the situation of Colonial Architect, of which I am informed he has some intention, it might be useful as a temporary measure to employ Mr. Lewis in his stead, as, though not an architect by profession having been chiefly employed as an ordnance Draftsman, he is, I understand, practically acquainted with building. It would not however answer to leave him with the joint offices of Colonial Architect and Town Surveyor, as the duties of the former require frequent absences from Sydney, and the latter constant attendance there. In this Colony, where there are many important Buildings to be erected, it would be well worth while to engage an architect of acknowledged ability, and it would be desirable that his office should be entirely separated from that of the Surveyor General.

Civil engineer.

Civil Engineer, fol. 18.—I am not acquainted with the claims of Mr. John Nicholson to the character of a Scientific Engineer, unless they be founded on the fact of his having edited his father's works. Mr. Lennox will, I hope, turn out to be an useful Builder; but, as the work upon which he is now engaged is his first attempt of any magnitude in the Colony, and having been previously to his arrival employed in subordinate situations only, I must withhold my opinion of his competency, until the work upon which he is engaged is more nearly completed. If, by succeeding in this undertaking, he shall establish his

claim to consideration, I would propose to encrease his Salary from £120 to £200 per annum. With respect to the Surveyor General's remarks in conversation with the Governor, it seems to me to amount to this that the Colony *is* in want of a competent Civil Engineer, as such a person should possess not only the power of designing but the practical skill and experience necessary to direct and superintend the execution of his designs.

1834.
10 Oct.

From the high character given by the Survr. General of Mr. Thompson, and from the talent he has shewn in the office arrangements, I beg leave to recommend that he be with-drawn from the list of Assistant-Surveyors, and retained as principal Draftsman and that his Salary be made £400 a year. It would probably occasion discontent, were his rate of pay to be raised as assistant-Survr. above others of his class, the maximum pay of an assistant-Surveyor being fixed at £300. The two Drafts-men, whom the Survr.-General proposes to be appointed assistant Survrs., are estimated for as such for the next year. An addl. number of Clerks has been lately authorised for this office upon the recommendation of a Board, as reported in my Despatch of the 5th instant, No. 103.

Appointment
proposed for
J. Thompson.

Promotion of
draftsmen and
appointment of
clerks.

Having gone through the various arrangements proposed by the Survr. Genl., I think it right to offer a few remarks upon the dissatisfaction he expresses at the control exercised by the Colonial Govt. over his operations. From the tone of his letter, he seems to claim an entire liberty of action, and to rely upon his designation of Commissioner as a ground for the assumption. If, however, it be useful that the Governor of a Colony, distant 16,000 miles from the mother Country, should possess any Command over the Civil Servants of his Government, in no Department is it more necessary than in that of the Survr. General on account of the importance of his duties and the great expense attending their discharge, as well as for the purpose of guarding more effectually against the influence of private interests in undertaking and executing public works. Accordingly, I have taken an opportunity of letting the Survr.-General understand that, as well with respect to the King's Commands contained in my instructions as in everything relating to his Departt., I consider him amenable to my orders. I need hardly add that I look to His Majesty's Instructions as my guide for the direction of any matters to which they relate, and that, in such as are merely professional, I never interfere with the Survr. General's arrangements.

Necessity for
control of
governor over
surveyor-
general.

I have however not always complied with his recommendations to undertake works of magnitude, nor failed to direct him to

1834.
10 Oct.

proceed with others which I approved, for reasons which I have no doubt fully justify my interference.

Complaint by
T. L. Mitchell
against
R. Darling.

With respect to his complaint of want of support from the late Government, I regret that the Survr. General did not see the propriety of abstaining from any observation of the kind, and from any reference to the correspondence transmitted by my Predecessor's Despatch of the 29th March, 1831.

In that Despatch are set forth many glaring instances of misconduct, arising chiefly out of the assumed independence of action to which I have alluded; and those have been visited by so mild a reproof from the Secretary of State, that he ought either to have omitted all mention of those transactions, or, if he had been obliged to refer to them, should have expressed himself with humility and gratitude in consideration of the treatment he experienced.

I have, &c.,

RICHD. BOURKE.

[Enclosure No. 1.]

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

[Enclosure No. 2.]

3D GEO. 4, NO. 3, SEC. 28.

Magisterial
jurisdiction
conferred on
assistant
surveyors over
iron gangs and
road parties.

AND for the better ordering of Offenders sentenced to work in irons as aforesaid, and of transported felons and offenders employed to work upon the roads or other works of the Colony, whose stations are frequently remote from the places where Petty Sessions are appointed to be holden, or where Magistrates reside, it is hereby further enacted and declared that any Surveyor or Assistant Surveyor of Roads, being an Officer in the Surveyor General's Department, and duly appointed in writing under the hand of the Governor for the time being in this behalf, as well as any Justice of the Peace for the said Colony, shall have power and authority to hold a Court from time to time at the place where any iron gang or road party shall be stationed, and to hear in a summary way any complaint on oath, brought by the Superintendent, Overseer or Assistant Overseer of such iron gang or road party against any transported felon or offender in his charge, for refusing or neglecting to work, drunkenness, disobedience of orders, or such other disorderly or dishonest conduct; and, upon conviction, then and there to punish the offender by whipping, not exceeding fifty lashes, to be inflicted by a Constable or other person appointed for such purpose: Provided always, that a full and sufficient Record of every such conviction and punishment shall be made and transmitted to the proper officer as hereinafter directed.

GOVERNOR BOURKE TO RIGHT HON. E. G. STANLEY.

(Despatch No. 105, per ship Caroline.)

15 Oct.

Sir,

Government House, 15 Oct., 1834.

I have the honor to transmit the Copy of a letter with its enclosures, addressed to the Secretary of the Lords Commissioners of the Treasury, representing the difficulty which has

for some time been experienced in obtaining money for Bills on England, and the steps which I have in consequence been obliged to take for enabling the Commissariat to provide for the Military and Convict Service of the Colony. I have previously brought this subject under the notice of their Lordships and of the Secretary of State for the Colonies; and I have now very earnestly to request that a remittance of Specie to the amount of Sixty Thousand Pounds may be sent out with the least possible delay to enable me to repay that sum, which I have been obliged to borrow from the Colonial Funds.

1834.
15 Oct.

Funds
required by
commissariat.

Request for
remittance
of specie.

It will be for His Majesty's Government to determine in what way the supplies for the Military Chest are in future to be obtained. If wholly by sale of Treasury Bills in the Colony, I apprehend the annual loss will be considerable, and that it will be advisable to remit a larger quantity of Specie in preference, trusting to the demand for Treasury Bills to defray a part only of the expenditure.

Problem of
supplies for
military chest.

I have, &c.,

RICHD. BOURKE.

[Enclosure.]

[A copy of this letter is not available.]

GOVERNOR BOURKE TO RIGHT HON. E. G. STANLEY.

(Despatch No. 10S, per ship Caroline.)

Sir,

Government House, 18 October, 1834.

18 Oct.

I have the honor to forward herewith two Private acts, passed during the last Session of the Legislative Council, the one to enable the Proprietors of the Australian Subscription Library to sue and be sued in the name of their Secretary, the other to enable the Trustees of land granted by this Government as the site of a Chapel for the use of the Methodists to dispose of it with a view to the purchase of more convenient land for a similar purpose. As these acts will not come into operation until they receive His Majesty's allowance, I have thought it right to forward them by the first opportunity; and I have to request that, if no objection should arise, the allowance may be notified as early as possible. The public Acts are in course of preparation and will be transmitted when ready.

Transmission
of private acts
re library
and land for
Methodist
chapel.

I have, &c.,

RICHD. BOURKE.

[Enclosures.]

[These were copies of the acts of council, 5 Wm. IV.]

1834.
13 Oct.

GOVERNOR BOURKE TO RIGHT HON. E. G. STANLEY.

(Despatch No. 109, per ship Caroline.)

Sir,

Government House, 18 Octr., 1834.

Referring to the several Despatches, by which I have lately forwarded lists of Conditional Pardons for His Majesty's gracious allowance, and finding that very numerous applications continue to be made for this indulgence by parties whose claims are valid under the Colonial Regulations, I venture again to call the attention of His Majesty's Government to the circumstance of these applications being rendered far more numerous and urgent than they otherwise would be, in consequence of the disabilities* imposed by the Statute, 2 and 3 Wm. IV, C. —, on the Holders of Tickets of Leave.

Applications
for conditional
pardons.

Reasons for
applications.

Before the passing of this Act, the holder of a Ticket of Leave had, *quam diu se bene gesserit*, all the privileges of a Conditional Pardon. The consequence was that, on the one hand, many were Contented with the minor indulgence, without urging even a well founded claim to a Pardon, and on the other that the best conduct did not so imperatively call for an extension of the Superior indulgence, as at present, when it is necessary to enable the applicant to hold property or even to sue for the wages of his labor.

Advantages of
former system
of tickets of
leave.

In the various stages of progress towards reformation among a population such as that formed by the system of transportation, the one for which it is perhaps of the highest importance to provide an appropriate position in Society is that in which, though their conduct affords good reason to hope that they will properly exercise all the privileges of a free citizen, it would be dangerous to relinquish the power of recalling them to servitude in the event of this hope proving fallacious. The knowledge that this power exists is, of itself, from the wariness it induces on the part of the holders of the Indulgence a most important incentive to reformation; and habits, induced from a fear of relapse into their servile condition, may at length be so confirmed as to render it safe to dispense with this check.

Objections to
new system.

The present system is, I consider, injurious in every way. The Holder of a Ticket of Leave, being liable to be cheated with impunity, loses his chief motive to industry and frugality; while the dishonest habits of others are encouraged by the ease with which they can be practised on a large class of their neighbours.

The Government is at the same time embarassed, in cases where the conduct of a prisoner fully entitled him to a trial of his fitness for assuming all the rights and duties of a free person; but where it may be desirable to make their confirmation

* Note 141.

depend on the manner in which he is found to exercise them under his probation. At present the only instrument, which restores these rights effectually, renders them irrevocable except by a new conviction of a serious offence.

1834.
18 Oct.

My object in this communication is to remove any surprise that you might otherwise feel at the number of Conditl. Pardons sent home, and at the same time to shew the importance of a repeal of the restrictions placed on the minor indulgence of a Ticket of Leave, as far as relates to property, not merely with a view to the relief of the parties, but for the advanct. of the first ends of penal discipline.

Reasons for
submitting
report.

I have, &c.,

RICHD. BOURKE.

GOVERNOR BOURKE TO RIGHT HON. E. G. STANLEY.
(Despatch No. 110, per ship Redman; acknowledged by
lord Glenelg, 5th September, 1835.)

Sir, Government House, 19 Octr., 1834.

19 Oct.

I have the honor to forward herewith a Memorial from Mr. John Westgate, Clerk of the Records at the Sydney Police office, praying that his Salary may be increased from £130 to £150 per annum. This augmentation was held out to Mr. Westgate in the year 1829 in the event of his being approved for his situation at the end of six months; but the instructions of the Secretary of State regarding Salaries placed it out of General Darling's power to fulfil his first intention in this respect.

Application by
J. Westgate
for increased
salary.

Under these circumstances and in reliance on the testimonials in favor of Mr. Westgate, which accompany his Memorial, I beg leave to recommend its prayer to your favorable consideration.

I have, &c.,

RICHD. BOURKE.

[Enclosure.]

[A copy of this memorial is not available.]

GOVERNOR BOURKE TO UNDER SECRETARY LEFEVRE.
(Despatch per ship Redman.)

Sir, Government House, 19 Octr., 1834.

I have the honor to acknowledge the receipt of your letter of the 21st March last, desiring that enquiry might be made as to the fact represented by the Revd. J. J. Fletcher of Daman, Assford, Wicklow, Ireland, in a letter therewith enclosed, namely that John Murray of O'Connell Plains near Bathurst in this Colony had paid £120 for the purpose of defraying the passages

Alleged advance
of passage
money by
J. Murray.

1834.
19 Oct.

Alleged advance
of passage
money by
J. Murray.

of his family from England to New South Wales. You will perceive from the letters of the Police Magistrate of Bathurst, of which I have the honor to transmit Copies, that, although John Murray at one time expressed his willingness to pay that sum, no part of it has in fact been ever paid. I have, &c.,

RICHD. BOURKE.

[Enclosure No. 1.]

MR. T. EVERNDEN TO COLONIAL SECRETARY MACLEAY.

Sir, Police Office, Bathurst, 22 September, 1834.

Report by
T. Evernden.

I have the honor to acknowledge the receipt of your letter of the 8 instant, accompanied by Copy of a Letter from the Reverend J. J. Fletcher; and in reply thereto beg leave to state for the information of His Excellency the Governor that I have called at the Residence of John Murray at O'Connell's Plains, and found that he was from Home at Sydney; but, on enquiring of the Wife into the circumstances referred to in your said Letter, she informed me that, when His Excellency the Governor was up in this District, Murray presented a Memorial to him requesting him to procure for the Home Government that the Family alluded to in Mr. Fletcher's Letter might be sent out to this Colony, he Murray promising to pay £120 towards the Expenses of their passage on their arrival; but that no Money was ever advanced or remitted by him for that purpose; nor do I think his utmost efforts would enable him to realise so large a Sum as that stated, namely one hundred and twenty Pounds; and I cannot but strongly Suspect that this promise was made to induce the Government to incur an Expense which he had neither the intention or means to refund.

I have, &c.,

THOMAS EVERNDEN, J.P.,
Superintendent of Police.

[Enclosure No. 2.]

MR. T. EVERNDEN TO COLONIAL SECRETARY MACLEAY.

Sir, Police Office, Bathurst, 30 September, 1834.

Referring to your letter of the 8 instant, I have the honor to report to you for the information of His Excellency the Governor that, since writing my Letter of the 22 instant in reply thereto, John Murray of O'Connell's Plains has called on me and produced two letters on the Subject referred to in your said Letter, Copies of which I have the honor to Enclose herewith; I have gained no additional Information from Murray himself, the Statement previously made by his Wife to me being merely borne out by him. I see no reason to alter my former opinion as to Murray's motive in making this proposition. I have, &c.,

THOS. EVERNDEN, J.P.
Supt. of Police.

[Sub-enclosure No. 1.]

MEMORANDUM.

Reply to
application
for passages.

JOHN MURRAY is informed in reply to his Memorial that his application for his Family to be sent out at the Expense of Government, and for whose passage he expresses himself willing to pay a Yearly Sum of Twenty Pounds, will be Submitted for the Consideration of The Right Honorable The Secretary of State for the Colonies. John Murray must therefore send in full particulars as to the Number, Names and Residence of his Family.

Private Secretary's Office, 12 November, 1832.

R. BOURKE, Pt. Secy.

[Sub-enclosure No. 2.]

Colonial Secretary's Office, Sydney, 6 March, 1832.

JOHN AND BRIDGET MURRAY are informed, in reply to their Petition of the 19 January last, praying that their Relatives in Ireland may be forwarded to this Country in the first instance at the Expense of Government, but the amount to be eventually defrayed by them, that there is no public Fund from which such Expense can be incurred; but that, if any of their Relatives are in a Condition and would wish to engage with any Settler in the Neighbourhood of Bathurst or O'Connell's Plains as Servants or Laborers, they might perhaps be brought out.

1834.
19 Oct.Reply to
application
for passages.

for the Colonial Secretary,

True copy:—THOMAS EVERNDEN, J.P., Supt. of Police.

T. C. HARRINGTON.

RIGHT HON. T. SPRING RICE TO GOVERNOR BOURKE.

(Despatch No. 31, per ship Lady Nugent.)

Sir,

Downing Street, 22d October, 1834.

22 Oct.

I have received your Despatch No. 92 of the 29th Novr. last, enclosing a copy of the Report of the Committee of the Legislative Council on the Tunnel now in progress for conveying Water into Sydney, which appears to be very little more than half finished, 6,240 feet of the Tunnel being entirely completed, and about 5,000 feet remaining to be done. Having given my consideration to this Report, I have to approve of the completion of the Work according to the suggestions of the Committee, and to sanction the expense proposed in your Despatch of 3d August, 1833, to be incurred on this account, the consideration of which was deferred by my Predecessor, until the above-mentioned Report should have arrived.

Approval of
completion of
tunnel for
water supply
of Sydney.

I am, &c.,

T. SPRING RICE.

GOVERNOR BOURKE TO RIGHT HON. E. G. STANLEY.

(Despatch No. 115, per ship Redman; acknowledged by lord Glenelg, 9th September, 1835.)

Sir,

Government House, 22 Octr., 1834.

I have the honor to forward a Memorial from Mr. Thomas Hansen, whose services as Commander of the Colonial Schooner Isabella I have been lately obliged to discontinue on account of his age (upwards of seventy) and consequent infirmities.

Transmission
of memorial
from T. Hansen.

He states that he is left without provision and solicits a small pension for his maintenance in consideration of his having been employed in the service of this Government for fourteen years past. His conduct is highly spoken of, as you will perceive from the certificates appended to the Memorial. I do not feel myself at liberty to assist him in any way at the public expense without the sanction of His Majesty's Government; but I am disposed,

Request
for pension.

1834.

22 Oct.

Pension
proposed.

under all the circumstances of the case, to recommend that he be allowed 3s. per day for the remainder of his life, which cannot now long continue, to be paid out of the Military Chest, as his employment was in the Convict Service.

The pay, which he received as Commander of the *Isabella*, was 7s. 6d. per diem.

I have, &c.,

RICHD. BOURKE.

[Enclosure.]

[*A copy of this memorial is not available.*]

RIGHT HON. T. SPRING RICE TO GOVERNOR BOURKE.

(Despatch No. 32, per ship *Lady Nugent*.)

24 Oct.

Sir,

Downing Street, 24th October, 1834.

Relief of
17th by 28th
regiment.

I have the honor to acquaint you that The King has been pleased to approve of the 28th Regiment of foot proceeding in Detachments, in charge of Convicts, to New South Wales; and, on the arrival there of the Service Companies of that Corps, the 17th Regiment is to proceed to India to relieve the Regiment first on the Roster to return to England. I am, &c.,

T. SPRING RICE.

RIGHT HON. T. SPRING RICE TO GOVERNOR BOURKE.

(Despatch No. 33, per ship *Lady Nugent*.)

26 Oct.

Sir,

Downing Street, 26th October, 1834.

Despatch
acknowledged.

I have received your Dispatch No. 8 of the 24 January last, submitting for the Consideration of His Majesty's Government two Communications from the Judges of the Colony, the one, in favor of the Augmentation of the Salaries of the Clerks of the Supreme Court to the extent of £100 per Annum in addition to that of the first, and of £50 per Annum in addition to that of the second; and the other, requesting that each Judge may be provided with a Clerk at a Salary of £150 a year. Unwilling, as I am, to give my consent to any arrangement by which an additional charge will be incurred to the Colony, I still do not feel myself prepared, under the circumstances represented by the Judges, to decline acceding to their application in both cases. You will therefore consider yourself authorized to make the additions proposed to the Salaries of the first and second Clerks of the Supreme Court from the date of your receiving this Dispatch, and to assign Salaries to the three Clerks, applied for by the Judges, from the date at which you shall receive official Intimation of their respective Appointments, it being my intention to sanction this expence prospectively and not to authorize

Approval of
increased
salaries for
clerks of
supreme court.

any payments on this account for any antecedent period. It must be further understood that I have consented only to charge the public with the payment of the Salaries of these three Clerks, upon the condition proposed by the Judges themselves that, whenever Circuit Courts may be established (upon which subject I shall shortly have to address you), the Clerks so to be attached to the Judges shall be called upon to "perform those offices, which are executed by the Clerk of Arraigns and Nisi prius in England, without the necessity or Expence of any further Appointments," and that the Salaries of £150 a year, which is to be paid to each of them, is to be "in lieu of all Fees and Perquisites, which should be accounted for to the Public Treasury in like manner as the Fees of the several Clerks of the Supreme Court."

1834.
26 Oct.

Qualified approval of appointment of clerks for judges.

I am, &c.,

T. SPRING RICE.

RIGHT HON. T. SPRING RICE TO GOVERNOR BOURKE.

(Despatch No. 30, per ship Lady Nugent; acknowledged by Sir Richard Bourke, 27th April, 1835.)

Sir, Downing Street, 28th October, 1834.

28 Oct.

I beg to refer you to the Dispatch of my Predecessor, of the date mentioned in the margin,* on the subject of an Establishment called the Governor's Body Guard, which had attracted his attention, and which it was the desire of His Majesty should be immediately discontinued as being a very unnecessary expense.

Instructions for abolition of governor's body-guard.

As there does not appear to have been any communication from your government from which I can learn whether those Instructions have been carried into effect, I request to be informed, without delay, whether the Colony has been relieved from this charge; and, if not, that immediate measures may be taken for striking off an expense, which I deem wholly unnecessary, and which, at a time when so many reductions are in progress in other Branches of the Colonial Expenditure, I do not consider myself warranted in continuing.

I am, &c.,

T. SPRING RICE.

RIGHT HON. T. SPRING RICE TO GOVERNOR BOURKE.

(Despatch No. 34, per ship Lady Nugent; acknowledged by Sir Richard Bourke, 9th October, 1835.)

Sir, Downing Street, 29th October, 1834.

29 Oct.

Notwithstanding the repeated and urgent representations, which have been made by this Department relative to a Return of the names of Convicts, which both yourself and your

Instructions for transmission of returns of convicts.

* Marginal note.—No. 156, 28 Mar., 1833.

1834.
29 Oct.

Instructions for
transmission
of returns of
convicts.

Predecessor have been required to send home, no Returns of that nature have been received for a later period than the year 1828. I regret to be under the necessity of again calling your attention to the subject, and have now to signify to you the King's Commands that you do give immediate orders for the preparation of a complete Return up to the 31st Decr. next, and for the transmission of the same to England with as little delay as possible, in order that His Majesty's Government may be relieved from the inconvenience, which is at present sustained from not being able to give satisfactory answers to the numerous enquiries, which the friends of the Convicts are in the habit of making at the Colonial Office.

I am, &c.,
T. SPRING RICE.

GOVERNOR BOURKE TO RIGHT HON. T. SPRING RICE.
(Despatch No. 116, per ship Reynolds; acknowledged by
lord Glenelg, 22nd August, 1835.)

30 Oct.

Request for
details *re*
sentence on
J. Fleming.

Sir, Government House, 30th October, 1834.

I have the honor to request that you will cause to be ascertained and communicated to me the date, on which the sentence of transportation for seven years was passed upon John Fleming, who arrived here by the Ship Eliza from Ireland in the year 1829.

It appears that no dates of trial are inserted in the Indent received by that Ship. The dates were entered on the Muster List from the oral statements made by the prisoners themselves on arriving in Port Jackson. That appearing against the name of Fleming is the 28th July, 1828. He now declares this to be an error and produces an affidavit of Patrick Condon, who arrived by the Ship Mariner (3), stating that the Deponent and Fleming were both tried at Cork on the 5th August, 1826, for the same offence and severally sentenced to 7 yrs. transportation. In the present state of the case, I regard the mem. on the Muster List as the weightier evidence, and have therefore refused to allow Fleming a certificate of Freedom. I was willing to grant him a Ticket of Leave pending further Enquiry; but, as he has not thought proper to accept this, it has been considered most convenient to forward him to Port Macquarie to be there treated as an Invalid, which the state of his health admits of his being not unreasonably considered.

It is unnecessary after the foregoing statement to point out the extreme inconvenience to which this Government is exposed from such an omission in the Indent as that I have mentioned. The fact only came to my knowledge upon the application of Fleming, or a copy should have been before sent in order that

the deficient column might be supplied. This I now transmit; and, as I understand the present is not a solitary instance of the kind among the Indents received from Ireland, I have directed a search to be made and will forward copies of such others as may be found imperfect by an early opportunity. It is evidently desirable that the dates of trial to be now inserted should be certified with as much formality as the original entries on the Indent, being essential facts upon which this Government has to proceed in carrying the Sentences of these parties into effect. In this case, as in any others that may arise where no authentic date of trial has been received from home, I feel myself placed in a dilemma between encouraging fraud and committing injustice.

I have, &c.,

RICHD. BOURKE.

1834.
30 Oct.

Necessity for
dates of trial
in indents of
convicts.

RIGHT HON. T. SPRING RICE TO GOVERNOR BOURKE.
(Despatch No. 35, per ship Lady Nugent.)

Sir, Downing Street, 1st November, 1834.

1 Nov.

In reference to the letter addressed to you by my Under Secretary on the 30th of September, directing the payment of £1,800 to the Commander of the Ship "Duchess of Northumberland," being one half of the bounty of £12 for 300 young Women, whom that vessel had been engaged to convey from Ireland, I have now to explain to you that, the arrangements connected with the Selection of these Emigrants having been left wholly to Committees on the Spot, without any interference on the part of the London Committee, it became absolutely necessary to charter a Ship for the conveyance of a Specific number, and, whether that number were embarked or not, to pay to the Owners of the Ship the full amount of the Sum Stipulated.

Terms of
charter of ship
Duchess of
Northumber-
land.

At the time that such arrangement was made, this Department had of course no reason to suppose that the number of young women would fall short of that which the Ship was calculated to receive. But I regret to inform you that only 226 have embarked, being a deficiency of 74 on the number expected. This deficiency is not, however, attributed to any disinclination on the part of the Irish female Peasantry to leave their Country, but to other causes which I trust will not affect any future efforts, which may be made to admit the Irish Population to a fair participation of the benefits which the assistance afforded by the Government in this respect is calculated to bestow.

Deficiency of
immigrants
embarked.

The Sum, for which the "Duchess of Northumberland" was engaged in the execution of the Service in question, was at the rate of £17 pr. head for 300 young Women; and the arrangements

Per capita
payments for
immigrants.

1834.

1 Nov.

Agreement
re payments.

entered into for the payment of that amount was this: that £6 pr. head should be paid on the arrival of the Ship in the Colony, and that the other £6 should be paid on her departure from this Country; leaving each Woman to supply the remaining £5 from her own funds, or, in cases where they might fail, the Treasury undertaking to advance it in this Country on the Parties giving a promissory note for repayment of £6 in the Colony.

Instructions
re payment
of deficiency.

The promissory Notes of the Females, who have accepted this assistance, were forwarded to you in the vessel in which the Emigrants were conveyed; but, as the Vessel sailed 74 short of her fixed number, it will be necessary that the extra Sum of £5 pr. head should be paid on that number to complete the amount due to the Owners of the Vessel, according to the explanation before given.

I have therefore to desire that you will pay into the Military chest (in addition to the half of the Bounty of £12, adverted to in my Under Secretary's letter of the 30th of September, and the amount of the Promissory Notes which have been advanced by the Treasury, as directed also in his letter of 2nd of September) a further Sum of £370, making a total amount of £3,300, which will be that portion of the freight of the "Duchess of Northumberland" which has been paid in this Country, charging the same to the funds available for the purposes of Emigration to New South Wales.

I have, &c.,

T. SPRING RICE.

RIGHT HON. T. SPRING RICE TO GOVERNOR BOURKE.

(A circular despatch per ship Lady Nugent.)

4 Nov.

Furniture for
government
offices.

Sir,

Colonial Office, 4 Novr., 1834.

A question having arisen as to the Articles of Furniture, which it would be proper to supply at the Public Expence for the Government Offices in New South Wales, and as to the mode in which their custody and repair would be most effectually secured, I have the Honor to transmit to you for your guidance the copy of a letter, which has been addressed to one of my Under Secretaries of State by the Secretary of the Treasury on the subject.

I entirely agree with the Lords Commissioners of the Treasury in the propriety of adopting some uniform plan of regulating the supply, safe custody, and repair of Furniture, which may be supplied by the several Colonial Governments to their local Departments; and with this view I have to desire that, in all cases in which Furniture is provided at the Public Expence,

you will adopt those Regulations which were framed more particularly with reference to the Furniture supplied for the Residences of Colonial Governors, and which were transmitted to you in my Predecessor's Circular Dispatch of the 1st of January last.

I have, &c.,

T. SPRING RICE.

1834.
4 Nov.

[Enclosure.]

HON. J. STEWART TO SIR GEORGE GREY.

Sir,

Treasury Chambers, 30 Oct., 1834.

With reference to Mr. Stephen's Letter of 10th Inst., enclosing copy of one from Lt. Govr. Arthur on the subject of Furniture for the Govt. Offices in Van Diemen's Land, I am commanded by the Lords Commissioners of His Majesty's Treasury to acquaint you, for the information of Mr. Secretary Spring Rice, that no specific Regulation has been laid down in regard to the Articles of Furniture to be supplied at the public Expence for the Offices occupied by the Commissariat on Foreign Stations, which would be useful as a Guide to the Governors of Colonies in this respect, the only Rule, established with reference to this Subject in the Commissariat Department, being that half yearly Returns shall be forwarded to this Board from each Station abroad of all Furniture under the Commissary's charge, with explanation of any alterations or additions that may from time to time be made in the same; by which Returns, any purchase of Furniture not requisite or suitable for the proper accommodation of the Persons belonging to the Department, while engaged in the transaction of the public business, would be brought immediately to My Lords' notice, and any misappropriation of the Furniture purchased is guarded against.

Instructions
re furniture in
government
offices.

With reference to Col. Arthur's Application, My Lords would recommend that he should be enjoined to restrict any Expence under this head to the Purchase of Furniture coming within the description above mentioned, and of plain but substantial quality; and, adverting to the Articles named in Colonel Arthur's dispatch, vizt., Carpeting and Window Blinds, My Lords may observe that the latter would seem requisite in all Climates, but the former would appear to be quite unnecessary, except in Climates where a considerable degree of cold is experienced.

Colonel Arthur should also be instructed to cause periodical Returns of all official Furniture to be made to and inspected by some fit Officer of His Government, who should report to him any irregularity or loss that may occur.

My Lords would further suggest, as the subject has been brought under Mr. Rice's consideration, whether it might not be advisable that similar directions to those he may convey to the Lieutenant Governor of Van Diemen's Land should be addressed to the Governors of the other Colonies, in which the incidental Expences of the Local Departments are defrayed either from Revenues under the Control of the Crown or from any Funds provided by this Country; and, upon being apprised of the terms of any such communication, My Lords would direct the Commissioners of Audit to see that all charges for Official Furniture, to which they may have reference, are in conformity with them.

I have, &c.,

J. STEWART.

1834.
6 Nov.

RIGHT HON. T. SPRING RICE TO GOVERNOR BOURKE.

(Despatch No. 36, per ship Lady Nugent; acknowledged by
Sir Richard Bourke, 6th October, 1835.)

Sir, Downing Street, 6th November, 1834.

Transmission
of letter from
Sir E. Parry.

I beg to call your attention to the enclosed Letter, addressed by Sir Edward Parry to my Predecessor in office, dated the 19th Sept., 1833, the original of which appears to have been transmitted to you, in conformity to the established Regulations on that head, for the purpose of being forwarded to England with your Report, but which has not yet arrived. In this Letter, Sir Edward Parry states that he had applied to the Local Government for two Convict Mechanics to replace two others, who had qualified themselves for Tickets of Leave, but that his request has been refused on the ground of its being inconsistent with the established Regulations.

Instructions
re convict
mechanics and
labourers for
A.A. company.

In the absence of any report from you on this subject, I am unable to judge whether there exists any just cause of complaint on the part of the Australian Company against your decision; but, considering the facilities which were promised to the Company in respect to Convict Labor and the inconvenience which would result to the public from any scarcity in the supply of Coal, I should feel disposed to continue to the Company the same number of Convict Mechanics and Laborers as were assigned to them at first, and to perform, according to a liberal construction of the same, every other stipulation which was entered into on the part of this department with the Company at the period the Coal Mines were delivered over to them. I have therefore to request, in case there should exist no special reasons to the contrary, distinct from those which are adverted to by Sir Edward Parry in his communication to this office, that you will consider yourself authorized to complete the number of Convict Laborers for the working of the Coal Mines, to that of which the Establishment consisted, whilst the mines were in the hands of the Government.

I am, &c.,

T. SPRING RICE.

[Enclosure.]

SIR EDWARD PARRY TO RIGHT HON. E. G. STANLEY.

Sir, Port Stephens, New South Wales, 19 Sept., 1834.

Previous letter
of complaint.

On the 12th Inst. I did myself the Honor, as Commissioner for managing the Affairs of the Australian Agricultural Company in New South Wales, to address to you a Letter on the Subject of a Claim against His Majesty's Local Government for Coals furnished by the Company, which Claim His Excellency General Bourke had declined recognizing for the reasons which I have explained in that communication.

I am now as unexpectedly as unwillingly again under the necessity of addressing you on a subject of still greater importance to the Company's Interests, as relates to their Coal-Works at Newcastle.

1834.
6 Nov.

For this purpose, I beg once more to call your attention to Mr. Twiss's letter to Mr. Brickwood (the Company's Secretary in London) dated 31st of July, 1828, which formed the Basis of that Agreement between His Majesty's Government and the Company, on the faith of which the latter have erected and are maintaining Coal-Works at so heavy an Expence, and by virtue of which they are bound to provide against any failure in the Supply of Coals to the Public.

Agreement re transfer of coal-mines to A.A. company.

In this letter, the following Condition occurs:—

Thirdly. "That, although the assistance required by the Company in regard to Convict Laborers must necessarily depend upon the means, which the Colonial Government may have at its disposal for affording it, yet, as the Government will cease to raise the Coal which may be required for the general Purposes of the Colony, every possible facility and encouragement for this object be afforded to the Company, so that no scarcity of this Article may take place, and the quantity raised be, as far as depends on the assistance of Convict labor, at all times if possible, adequate to the demand."

In accordance with this Stipulation, General Darling, the late Governor of the Colony, did afford every facility and encouragement as regards Convict labour in erecting and maintaining the Coal Works. Previous to the working of the Coals being entirely transferred to the Company, a few Extra Mechanics were lent to them from the Government Establishment at Newcastle for a certain number of Months, at the expiration of which they were duly returned to Government. Since that time, the Company's Establishment of Convicts at their Colliery has continued nearly as follows: the number and other particulars here stated being bona fide the Establishment on the 31st Ultó.:

Convict labour granted by R. Darling.

Convicts employed by A.A. company on coal-mines.

Blacksmith	1
Stone Cutter	1
Bricklayer	1
Carpenter	1
Sawyers (one pair)	2
	—
	6
Miners and labourers	37
	—
Total	43

It may be necessary to Explain to you that the above small Establishment of Six Convict Mechanics is as necessary to the effective maintenance of the Coal Works as the Miners and Labourers are. The Blacksmith and Carpenter are incessantly occupied in keeping the various parts of the "Pit gear," as well as the Coal Waggons, Coal-skips and railway, in repair, the latter being 329 yards in length. The same remark applies to the Bricklayer, the Chimney, as well as the Brickwork about the Boiler and round the Pit, needing constant repair, and the Services of a Stone Cutter, tho' not constantly required, are sometimes needed to keep

Necessity for convict mechanics.

1834.
6 Nov.

the Stone foundation of the Steam Engine in sound condition. The one pair of Sawyers is quite indispensable, as well to provide wood for the different buildings not yet completed, as to keep the Pit supplied with "Prop Wood" for supporting the roof, above five hundred props being at the present consumption required per month, or about 6,300 per year, all of which have to be brought from several miles distance.

Proposed
withdrawal
of convict
mechanics.

Upon the above mentioned Establishment (which however, as regards *regular Miners*, is at times barely sufficient to keep up the supply of Coals), the operations of the Company's Colliery were proceeding with tolerable prospects of Success and the encreasing consumption (under their improved mode of working) was beginning to reduce the actual Cost of raising the Coals to the low and hitherto losing price at which they were sold, when I received a communication from the Colonial Secretary of a very alarming nature, inasmuch as it intimates an intention, on the part of the present local Government, to deny to the Company's Colliery for the future that moderate assistance in the labour of Convict Mechanics, to which for Two years past they have been considered entitled, and without which they must struggle afresh for the very smallest profit upon this important part of their undertaking.

Application
for convict
mechanics.

On the 19th Ultó., I applied in the usual Form to the proper Board for the Assignment of a Bricklayer and a Sawyer for the Colliery, in place of two such Men about to receive Tickets of Leave. At the same time, I wrote a letter to the Colonial Secretary (of which a copy is hereunto annexed) stating for the Governor's Information the particular circumstances of my application. I also annex a copy of the Colonial Secretary's reply.

Protest against
refusal of
mechanics.

Under these circumstances, I am compelled to appeal to your decision whether it be in accordance with the spirit, or even with the letter, of the stipulations above referred to, that the Company should be refused the assignment of two Convicts for the purposes I have mentioned, in consequence of any "Regulations established." *Since those stipulations were entered into*: Regulations which have never been opposed to this Specific claim of the Company until now, and which, if applied to the Company's Colliery, will alter the whole bearing of their Agreement with His Majesty's Government.

Annual
expenditure
on wages and
salaries at
colliery.

It may be proper for me to acquaint you that the Salaries and Wages now paid by the Company to *Free Persons employed exclusively in their Colliery*, comprising a Manager, a Book-keeper, an Engineer, a Brakesman and a Blacksmith, amount to £1,187 18s. 1d. per Annum, which I am sure you will consider more than a reasonable Annual Outlay for Free-labor in an Infant Establishment of this nature; whereas the principle, now about to be acted upon by His Excellency Governor Bourke, would shortly encrease this outlay to the Amount of between £300 and £400 per Annum for the maintenance of Six more free Mechanics.

I beg leave, Sir, most respectfully to assure you that it is impossible for the Australian Agricultural Company to continue the Working of the Coal Mines at the present price of Nine Shillings per Ton to the Public and Eight Shillings per Ton to the Government, if this new and unexpected obstruction be thrown in the way of their operations.

It may not be improper for me to add, in justice to the Australian Agricultural Company and to myself as their Agent, that,

while difficulties are thus opposed by the Government to the economical working of the Company's Mines, it has been and still is my most anxious desire to afford to the Government every possible convenience and advantage. As one proof of this, I may mention that, so far from taking advantage of the *letter* of the Company's Stipulations to deliver the Coals to the Government "at the Pit's Mouth," I have always delivered it on board the vessels by the Rail-road constructed at several Thousand Pounds expence for that purpose, by which arrangement alone the Government has been enabled to do away with an expensive Establishment of Carts, Working Oxen, Drivers and Labourers, for shipping their Coals in the former slow method at the Old Wharf, now nearly gone to decay. I am confident in stating that Sixpence per Ton is thus saved to the Government upon every Ton of Coals they consume, while, on the other hand, *Ten* Tons of Coals are now delivered on board the Vessel in the space of time in which a Cart could deliver *one*, should the Company's Agent be disposed to insist (as he justly might) on complying with the literal terms of their Agreement.

On all these grounds, I do myself the Honor most earnestly to request, on behalf of the Australian Agricultural Company, that directions may be given for affording to their Colliery Every possible facility and encouragement as regards Convict-labor, in performance of the Stipulation entered into by His Majesty's Home Government on this head, and especially that the Company may not be deprived of that precise kind of labor, which among Free Persons it is the most difficult and expensive to obtain in New South Wales, namely that of Mechanics such as those above referred to.

I have, &c.,

W. E. PARRY,

Commissioner for managing the Affairs of the Australian Agricultural Company in New South Wales.

RIGHT HON. T. SPRING RICE TO GOVERNOR BOURKE.

(Despatch No. 37, per ship Lady Nugent.)

Sir,

Downing Street, 7th November, 1834.

I transmit to you herewith the Copy of a Report from the Board of Audit to the Lords Commissioners of the Treasury, together with a Statement of Payments made without authority in the years 1831 and 1832 at New South Wales; and I have to request that you will furnish me with the necessary explanations in regard to the payments to Captain Rolland for arrears of Salary as Commandant at Port Macquarie; to Captain Rossi for Secret Service; and to Mr. Garling for Prosecutions before the Quarter Sessions. I have at the same time to call your attention to the circumstance of the Accounts for those years not having been accompanied by Copies of Lord Goderich's Dispatches authorising the payments adverted to by the Auditors, to Dr. Lang, and to the Church Missionary Society, and to desire

1834.
6 Nov.

Concessions
granted on
coals supplied
to government.

Request for
convict labour.

7 Nov.

Explanations
required *re*
unauthorised
payments.

1834.
7 Nov.

that you will remind the Officer, who is to blame for this oversight, of the Instructions which have been issued by my Predecessors on this subject.

Copy of estimates to be transmitted to auditors.

I have further to desire that you will transmit to the Auditors, with the Accounts which may in future be sent home, copies of the Estimates which may be voted by the Council for the year to which those Accounts belong.

I am, &c.,

T. SPRING RICE.

[Enclosure.]

HON. J. STEWART TO UNDER SECRETARY LEFEVRE.

Sir, Treasury Chambers, 14th April, 1834.

Transmission of report from commissioners of audit.

I am commanded by the Lords Commissioners of His Majesty's Treasury to transmit herewith the Copy of a Report from the Commissioners of Audit, dated 26th Ultimo, together with the enclosed statement of payments requiring the approval of His Majesty's Government in respect of New Appointments and additions to the Number and Salaries of Persons employed in the Colonial and Convict Establishments in New South Wales, and of payments of a special nature connected with these Services, extracted from the respective Accounts of the Colonial Treasurer and of the Commissary for the Years 1831 and 1832; and I am to request that, in submitting the same to Mr. Secretary Stanley, you will call his particular attention to the payments to Capn. Rolland for arrears of Salary as Commandant at Port McQuarrie, to Mr. Rossi for Secret Service, to Mr. Garling for prosecutions under the direction of the Attorney General before the Quarter Sessions, to the Revd. J. D. Lang on account of the Academical Institution, and to the Board for the Assignment of Convict Servants, and will move Mr. Stanley to cause my Lords to be informed whether these and the other payments comprized in the Statement have been reported to and approved by His Majesty's Secretary of State, or whether such explanations respecting them have been furnished as may induce Him to consider that they ought to be admitted on the Audit of the Accounts.

Queries re payments.

My Lords would also request to be furnished for the guidance of the Commissioners of Audit with Schedules of the Establishments at New South Wales and Van Diemen's Land, as settled in the Year 1832, including the Police and Convict Departments.

Request for schedules of establishments.

I am, &c.,

J. STEWART.

[Sub-enclosure No. 1.]

COMMISSIONERS OF AUDIT TO LORDS COMMISSIONERS OF TREASURY.

Audit Office,

My Lords, Somerset Place, 26th March, 1834.

Submission of special payments for consideration.

We have the honor to submit, for the consideration of your Lordships and of the Secretary of State for the Colonies, a statement of New Appointments and additions in the Number and Salaries of Persons employed in the Colonial and Convict Establishments in New South Wales, and of payment of a special nature connected with these Services, extracted from the respective Accounts of the Colonial Treasurer and of the Commissary for the Years 1831 and 1832.

We take this opportunity of representing to your Lordships that we have not hitherto been in possession of any complete and authorized Establishments of either the Civil or Convict Departments at New South Wales and Van Diemen's Land.

1834.
7 Nov.

We are aware that these Establishments must necessarily vary considerably from time to time, particularly in respect of the inferior Situations, which must naturally increase in proportion to the increase in the population and the number of Convicts in the Colonies.

We beg leave, however, to request that, if, in consequence of the subject of these Establishments having been recently as we apprehend under the special consideration of His Majesty's Government, any Establishment of the Civil and Convict Departments in New South Wales and Van Diemen's Land shall ultimately receive the sanction of His Majesty's Government, Your Lordships will be pleased to cause us to be furnished with Copies of the same for our guidance in the examination of the accounts for those Colonies.

Request for
schedules of
establishments.

We have, &c.,

F. S. LARPENT.

J. WISHAW.

H. F. LUTTRELL.

[Sub-enclosure No. 2.]

STATEMENT extracted from the Accounts of C. D. Riddell, Esqr., Colonial Treasurer, and of James Laidley, Esqr., Deputy Commissary General, in New South Wales, for the Years 1831 and 1832, and referred to in Auditors' Report of 26th March, 1834, of New Appointments, and additions in the number and Salaries of persons employed in the Civil and Convict Departments in New South Wales, as well as of payments for Contingencies or of a special nature, with regard to which it is not ascertained how far the same have been approved by H.M. Government.

Statement
re new
appointments,
etc., extracted
from accounts.

In the Accounts of the Colonial Treasurer.

No. 1. Jas. Raymond, Junior, a Clerk of the third Class in the Colonial Secretary's Department at £150 a year from 1st June, 1831.

Mr. Raymond's Salary up to 31st May, 1831, was only £100 a year as an Extra Clerk. The authority for his being placed on the Establishment as a Clerk of the third Class is a letter from the Colonial Secretary, in the Governor's name, dated 20th June, 1831, which does not specify the rate of Salary he is to receive.

2. G. M. Slade, Clerk to the Land Board, at £130 a Year from 1st January, 1831.

Transferred 1st Decr., 1831, on the abolition of the Land Board to the Board for assigning Convict Servants, at the same rate of Salary.

3. Arrears of Salary due to the late Captain Rolland, as Commandant of Port Macquarrie, from 2 April to 16 Novr., 1824, being the difference between 10s. a day, actually paid to him, and the rate of £300 a year, £73 14s. 1d.

As the allowance of £300 a Year to Commandants did not commence till after the period of Capt. Rolland's Service in that capacity, this issue appears to require the approval of the Secretary of State.

4. Pay of the following extra Clerks, prisoners of the Crown, in the Colonial Secretary's Department at 1s. 9d. a day:—B. Beattie from 13 Sept., 1831; J. Furby from 11 Sept., 1831; W. Watt from 1 October; Thos. Furby, from 26 November.

The allowance to W. Watt ceased on the 30th April, 1832. The others are continued in pay throughout the Accounts of 1832.

5. F. Rossi, Principal Superintendent of Police, Secret Service Money disbursed by him, paid 26 October, 1831—£76 6s. 4d.

No other Documents are produced than Mr. Rossi's receipt and the Governor's Warrant.

6. Fredk. Garling, Esqr., Clerk of the Peace, allowance for filing information in the absence of the Attorney General from 7 January, 1830, to 26 June, 1831, at the rate of £100 a Year—£146 16s. 11d.

This Office is not aware whether the allowance in question to Mr. Garling has been sanctioned by the Secretary of State.

1834.
7 Nov.
Statement
re new
appointments,
etc., extracted
from accounts.

7. Same person for prosecuting, under the direction of the Attorney General, all Crimes, Misdemeanors and other offences brought for trial before the Court of Quarter Sessions; a like allowance of £100 a Year from 27 June, 1831, to 30 Sept., 1832—£126 10s. 2d.

It will be seen by the preceding item that this allowance was originally granted by the Governor for the performance of a duty during the absence of the Attorney General, and the Commission was expressly directed to terminate at the time the present Attorney General, Mr. Kinchela, entered upon the functions of his Office, Viz., the 27th June, 1831. The allowance was however subsequently continued to Mr. Garling in consequence of a representation from Mr. Kinchela. The accounts in the Audit Office do not afford the means of ascertaining whether it has been continued for a later period than the 30th Sept., 1832. But, as the Attorney General is on the Spot to attend to a duty which had been assigned to Mr. Garling in the absence of that Functionary, and as it had been originally intended that Mr. Garling's allowance should cease on the Attorney General's arrival, some doubt is entertained as to the propriety of its becoming one of a permanent nature.

8. Revd. J. D. Lang on acct. of the contribution to be made by Government towards the establishment of an Academical Institution in Sydney—£1,500.

The Audit Office is not aware how far this issue has had the sanction of the Secretary of State, or to what further extent the Governor may have been authorized to contribute towards the intended object.

9. A. McLeay, Colonial Secretary, sundry expences incurred on account of the Department in 1829—£124 15s. 4d. Viz.: To Mr. Mathew Gregson for his Services in preparing certain returns for transmn. to England, after he ceased to be a Clerk in the Coll. Secy.'s Office., £80; To Moore and Moore, Attornies, being the Amount of their taxed Bill of Costs in the case of the King agt. Hall for libel in 1829, £44 15s. 4d.—£124 15s. 4d.

With respect to the Sum of £44 15s. 4d. paid to Messrs. Moore, their receipt expresses that it was paid to them subject to the approval of the Secretary of State. It appears that the case for Libel was commenced by the late Solicitor Genl. and that Mr. Moore, one of the Attornies, who also held the Situation of Crown Solicitor, had to proceed with it on the demise of the Solicitor General, until its termination, and that the Business did not in any way devolve upon him as Crown Solicitor. Under these circumstances, the Attorney Genl. recommended payment of Messrs. Moore's bill of Costs.

10. Board for the assignment of Convict Servants.—1st Member C. D. Riddell, £100 a year; Member F. A. Hely, £100 a year; Clerk G. M. Slade, £130 a year; from 1st Decr., 1831.

Messrs. Riddell and Hely were previously Members of the Land Board at the same Rates. That Board having been abolished, they, as well as Mr. Slade, were transferred to the New Board established for the Assignment of Convict Servants.

11. Ambrose Hallen, Colonial Architect at Sydney, at £400 a year from 1st April, 1832.

Mr. Hallen's previous Salary was £350 a year, as Town Surveyor in the Departt. of Public Works, and he was appointed to his present situation and Salary on that Department being abolished.

12. H. F. Drinkwater, Clerk in the Auditor General's Department at £160 a year, transferred at the same rate of Salary to the Post Office Departt. from 26 June, 1832.

This transfer took place in consequence of a report from the Auditor General, representing that the strength of the Post Office Establishment was inadequate to the performance of its Duties.

13. F. Mitchell, Sundry Articles purchased in Feb., 1832, to be sent as presents to the Chiefs of the South Sea Islands in H.M.S. Zebra—£50.

The quality of the Articles and fairness of the prices are certified by the Master attendant, who states that the presents were delivered to the care of the purser of the Zebra.

14. Captain Wilson, late Director of the Public Works, to enable him to defray the expences of his passage to England (paid 10 April, 1832)—£100.

This Officer was suspended from his duties on the 13th of February, 1832, in consequence of an investigation into charges preferred against him; and the Department of Public Works was subsequently abolished.

15. Richd. Jones Estimated value of the Punts, etc., at Wiseman's Ferry, purchased in June, 1832—£267.

The fairness of the terms, on which this purchase was made by the local Government, is duly attested by the Master attendant. The ferry, having thus become public property, was let for Government Account, and Credit is shewn in the Accounts of the Collector of Internal Revenue for the Sums periodically paid to the local Government on account thereof.

16. Blankets supplied for the Black Natives by Jas. Holt, £34 6s.; Jn. Finnis, £24; Jas. Simmons, £21 5s.; W. Bowen, £40; in May, 1832. by J. Lord, £106 10s., in Aug., 1832.

Tenders were invited; the quality of the Blankets and fairness of the prices are duly certified by the competent Departt. The Colonial Secretary states, in a letter to the Auditor General of 31 May, 1832, that the object of the purchase was to contribute to the comfort of the Natives, and to encourage a friendly disposition in them towards the Settlers.

17. Revd. Richd. Hill on account of the expenses of a Mission to the Aborigines of New South Wales—7 Aug., 1832, £250; 14 Sept., £150.

These Sums were issued, as the Warrant states, on account of the yearly Amount (£500) voted by the Legislative Council for the said Mission in July, 1832.

18. Repairs of Government House at Parramatta, viz., Wages of Mechanics employed from July to October, 1832, £95 6s.; E. Marvin for shinglings, etc., from May to Sept., 1832, £126 1s. 1d.; W. Syrett, Plasterer's Work in September, 1832, £96 10s. 11d.; R. O. Powys, Upholsters Work in Novr., 1832, £15; F. Peterson, Glaziers Work from Sept. to Novr., 1832, £26 12s. 11d.; Paid in Decr., 1832.

These Vouchers are accompanied by an abstract, signed by the Colonial Architect, of "Accounts of expenses incurred for furniture and repairs to Government Houses at Sydney and Parramatta," which are stated to amount as follows:—for Sydney to, £100 2s. 7d.; for Parramatta, £677 8s. 6½d.—£777 11s. 1½d. But, on referring to the Governor's Warrant dated 22nd Decr., 1832, and to the particulars accompanying it, those expenses are stated at £782 5s. 1½d., the difference of £4 14s., apparently omitted in the Colonial Architect's abstract, forming part of the Sum of £126 1s. 1d. described opposite. No other payments are found in these accounts in respect of the Warrant above mentioned, excepting those here stated; it is therefore supposed that the remaining items will be charged in the forthcoming Treasurer's Account for 1833. The Audit Office is not aware whether application has been made by the local Government to the Secretary of State for his sanction to this expenditure, in respect of the repairs of the Government Houses at Sydney and Parramatta.

In the Accounts of the Deputy Commissary General.

Medical Department, Liverpool. Assist. Surgeon Mr. K. Robertson at 10s. a day and £50 pr. annum in lieu of Quarters from July, 1831.

This appears to be a New Appointment, in addition to the previous strength of the Medical Department at Liverpool; it is stated to be temporary, but appears to have continued to the latest period of the Accounts in this Office.

By Order of the Board,

Audit Office, Somerset Place, 26th March, 1834. G. S. ENGLEBACH, Inspector.

RIGHT HON. T. SPRING RICE TO GOVERNOR BOURKE.

(Despatch No. 38, per ship Lady Nugent.)

Sir,

Downing Street, 8th November, 1834.

8 Nov.

I herewith transmit for your information Copy of a letter from Colonel Arthur, together with my reply, relative to a claim which the Owners of Transports, engaged in the conveyance of Convicts to Van Diemen's Land, have preferred to be exempted from a duty of Six Pence per Ton, to which all Vessels arriving at Hobart Town are subjected by the Port Regulations.

The same reasons may not exist at Sydney for imposing a Tonnage Duty, corresponding to that established at Van Diemen's Land; and, if none has been levied there on the Shipping generally, it is not the object of my present despatch now to establish it; but I have deemed it expedient to apprise you of the opinion, which I have expressed to Colonel Arthur upon the subject as one of the grounds on which the Owners of this particular class of Ships proceeding to Van Diemen's Land have claimed to be relieved from the charge, is that no duty of this kind is levied at Sydney.

I am, &c.,

T. SPRING RICE.

1834.

7 Nov.

Statement
re new
appointments,
etc., extracted
from accounts.

Claim by
owners of
transport ships
to exemption
from tonnage
dues.

1834.
8 Nov.

[Enclosure No. 1.]

LIEUT.-GOVERNOR ARTHUR TO UNDER SECRETARY HAY.

Van Diemen's Land,

Government House, 31st January, 1834.

Sir,

Liability of
convict ships to
tonnage dues.

I have the honor to transmit for the consideration of the Secretary of State the accompanying copy of an opinion of the Law Officers of the Crown, relative to the liability of Convict Transports to pay the charge of 6d. per Ton imposed in lieu of all former charges by the Port Regulation Act. The question hinges upon this: was it the intention of the Secretary of State, in the Despatch of the 18th of November, 1825, to exonerate such vessels from every charge to which other Ships were liable?

I would submit that the 6d. per Ton is not to be looked upon in the light of a Tax, but of Compensation to the Government for work and labour done in providing a good Wharf, and bringing fresh water by an aqueduct to the Sea side for the convenience of the Shipping, an advantage in which the Convict Transports participate equally with every class.

I have, &c.,

GEO. ARTHUR.

[Sub-enclosure.]

MR. E. MACDOWELL TO THE COLONIAL SECRETARY.

Sir,

Macquarie Street, 14th January, 1834.

Legal opinion
re liability of
convicts ships
to tonnage dues.

I have the honor to acknowledge the receipt of your Memorandum of the 2nd instant, transmitting, by direction of His Excellency The Lieutenant Governor, two letters from the Collector and Controller of Customs relative to the liability of Transport Ships to the payment of Tonnage Dues under the new Port Regulation Act, and, in reply thereto, beg to report that, inasmuch as by law Prison Ships are liable to the duties imposed under the recent Act of Council, The Attorney General concurs with me in thinking that these duties ought to be levied until His Excellency can ascertain from the Secretary of State whether Lord Bathurst's letter intended to exempt Prison Ships, which certainly have no Agent of Transports on board, from those charges, in lieu of which the Tonnage duty has been substituted.

I have, &c.,

EDWARD MACDOWELL.

[Enclosure No. 2.]

RIGHT HON. T. SPRING RICE TO LIEUT.-GOVERNOR ARTHUR.

Sir,

Downing Street, 17 Novr., 1834.

Instructions
for collection
of tonnage dues
on convict
ships.

My Under Secretary has laid before me your letter to him of the 31 of Jany. last, submitting a question arising out of the construction of a despatch from the Secretary of State, dated 18 Novr., 1825, vizt., as to the liability of Transports, employed in the conveyance of Convicts to Van Diemen's Land, to pay the same duty of 6d. per Ton, as all other Vessels entering the Ports of that Colony are subjected; and I have now the honor of acquainting you that, considering the purposes for which this charge is imposed, as explained in your letter, I see no reason whatever for exonerating the Transports so employed from this payment, the enforcement of which upon them will of course be continued as heretofore.

I am, &c.,

T. SPRING RICE.

RIGHT HON. T. SPRING RICE TO GOVERNOR BOURKE.
(Despatch No. 39, per ship Lady Nugent.)

1834.
15 Nov.

Sir, Downing Street, 15 Novr., 1834.

With reference to your Despatch No. 19 of the 5th of February, and No. 104 of the 7th of Decr., 1833, reporting the arrangements which you had made for the custody and repair of Public Buildings in New South Wales, and recommending that a Branch of the Ordnance Department should be stationed in that Colony, I have the honor to enclose, for your information and guidance, a copy of a letter, which has been addressed to this Department by desire of the Lords Commissioners of the Treasury, to whose consideration those Despatches were referred. You will perceive that it is in the contemplation of His Majesty's Government to send out to the Australian Colonies some Officers of the Ordnance Department to take charge of the Military and Convict Buildings and Stores, and whose services might be made available in the performance of any analogous duties for the civil Government.

Despatch
acknowledged.

Ordnance
officers to
control military
and convict
buildings and
stores.

Their Lordships, however, have thought it right, as a preliminary to the adoption of any such measure, to charge the Colonial Revenues with a part of the Expenditure from which they were relieved in the year 1827, and which is at present defrayed by the Mother Country.

Proposed charge
on colonial
revenues.

Concurring, as I do, with their Lordships in the opinions which they have expressed on this subject, I have to instruct you to take measures for providing out of the Revenues of New South Wales, from and after the 1st of July, 1835, for such charges, as are now defrayed from the Military Chest, for the Police Establishment, for Gaols, and for a certain portion of the Colonial Marine, the expence of which is estimated at about £25,000 per annum, the Commissariat still continuing to pay, from funds provided from this Country, all charges immediately connected with the custody and superintendance of the Convicts, including the Penal Settlements and the Judicial Establishments and also the Vessels employed in communicating with the Penal Settlements and detached Military Stations.

Charges to
be paid by
commissariat.

It only remains for me to call your attention to the concluding observations in the enclosed letter upon the subject of certain Disbursements, on account of Repairs of Buildings undertaken by you without the previous authority of His Majesty's Government, and to convey to you my authority for commencing with the concurrence of your Council all such repairs as may be from time to time requisite for the proper maintenance of any of the Public Buildings, provided such repairs are only undertaken upon regular and specific Reports of Survey and Estimates.

Repairs to
buildings
authorised by
governor with
advice of
council.

1834.
15 Nov.

You will also understand that this authority is not to comprize the erection of new Buildings or additions to existing Buildings; neither is it to be understood to warrant alterations in any Public Buildings, except in so far as they can be incidentally made in the course of any repairs that may be otherwise necessary.

I am, &c.,

T. SPRING RICE.

[Enclosure.]

MR. F. BARING TO SIR GEORGE GREY.

Sir,

Treasury Chambers, 23 Sept., 1834.

I am commanded by The Lords Commissioners of H.M. Treasury to request you will state to Mr. Secretary Spring Rice that their Lordships have had under consideration the communications from your Department of 5th Oct., 1833, and 4th June and 16th July last, relating to the arrangements, made by the Officers administering the Governments of New South Wales and Van Diemen's Land, for the custody and repair of Public Buildings in the respective Colonies, in consequence of the reductions recommended by the Commission of Colonial Inquiry in the Departments previously charged with these services, and also various other representations from the Officers Commanding the Troops, and from the Officers of the Commissariat on those Stations on the same subject; but My Lords have hitherto been induced to defer making any reply to these communications under the impression that some contemplated alterations in the Military Departments of this Country might have rendered nugatory any decision on the points, to which they related.

I have now however to request you will observe to Mr. Rice that it appears from Documents before My Lords that the reductions in those branches of the Colonial Establishments at New South Wales and Van Diemen's Land, connected with Public Works and Buildings, have occasioned the transfer of the charge of all Buildings appertaining to the Military, the Convict and the Police Departments to the Commissariat on the respective Stations, on the ground that the Expences of these Departments are defrayed from the Military Chests. The expediency of devolving on the Commissariat a charge of this description, in addition to the other extensive duties it has already to perform in these Colonies, is very questionable; and, as My Lords moreover find that it has been considered necessary to attach Clerks of the Works to this Department, and otherwise to augment it in consequence of this arrangement, they conceive that the employment of a branch of the Ordnance Establishment in these Colonies might very possibly be quite consistent with those principles of economy, to which their attention was called in the communication from Mr. Hay of the 12th February, 1833. But it has occurred to My Lords that it would be right, as a preliminary to the adoption of any such measure, to consider how far it may be necessary that so large a portion of the Public Expenditure in these Colonies should still continue to be defrayed from the Funds of this Country through the medium of the Military Chests.

My Lords observe that the existing arrangements in this respect were adopted in the year 1827 upon the discontinuance of the Specific Parliamentary Grants for the Civil Establishments in the

Problem of
custody and
repair of
public
buildings.

Control of
buildings by
commissariat.

Proposed
transfer of
control to
ordnance
officers.

Australian Colonies; that the Expenditure it was then determined to charge upon the Colonial Treasuries was apportioned to the then produce of the Colonial Revenues; and that the local Government were apprised that, as the growing prosperity of the Colonies might augment the Revenues, some portion of the Convict Expences, and particularly those of a mixed nature such as the Police, would eventually become chargeable upon the Colonial Treasuries. The Local Revenues were estimated at that period to produce at New S. Wales, £62,229; at Van Diemen's Land, £32,852; whereas the Revenue of recent years, without any material increase of Taxation, has been at New South Wales—

1834.
15 Nov.
Apportionment of colonial expenditure.
Annual revenue of colonies.

1830	£104,602
1831	120,204
1832	135,909

at Van Diemen's Land—

1830	£63,586
1831	71,067
1832	91,976
1833	85,505

and the Expenditure has fallen so far short of the receipts that the Commiss'rs of Audit have thought it necessary to call My Lords' attention to progressive accumulations in Colonial Treasuries to the Amount, at New South Wales at the end of 1832, of £46,224; and, at Van Diemen's Land at the end of 1831, of £35,034.

Accumulated surpluses.

At New South Wales considerable payments have been made from the local Revenue towards the Expences of the Police; and it is proposed, in the Estimate of Expenditure for 1834 adopted by the Colonial Council, to apply £8,000 to this Service; but, at the same time, the receipts from Sales of Crown Lands, Fines, and some other Heads of casual Revenue, formerly paid into the Military Chest, have latterly been carried to the credit of the Colonial Revenue.

Appropriations for maintenance of police.

Under these circumstances, it appears to My Lords that the time has now arrived, when the arrangement of 1827 may be most properly revised; and the intention then entertained of charging further portions of the Expenditure, incurred in these Colonies upon the Colonial Revenues, carried into effect by the transfer to the Colonial Treasuries of such charges as are now defrayed from the Military Chests, for the Police Establishments, for Gaols, and for the Colonial Marine, exclusive of Vessels, hereafter adverted to, for the Commissariat still continuing to pay from Funds provided by this Country all charges immediately connected with the Custody and superintendance of the Convicts, including the Penal Stations and the Medical Establishment, and also the Vessels Employed in communicating with the Penal Stations and detached Military Posts.

Proposed redistribution of charges.

My Lords have no recent Statement before them of the exact amount of the charges thus to be transferred to the Colonial Funds; but they conceive they will not exceed £25,000 pr. Annum at New South Wales, and £12,000 pr. annm. at Van Diemen's Land.

Estimate of charges to be transferred to colonial funds.

They are aware that it may be alleged that the very heavy expence of Police, which constitutes by far the greater portion of these amounts, as well as the charges attending the Gaols, are principally rendered necessary by the presence of the Convicts; but, as the great and rapidly increasing prosperity of these Colonies is mainly to be attributed to the advantages derived from the labour of the Convicts, and as the necessity for the large Police

Reasons for proposed transfer of charges.

1834.
15 Nov.

Reasons for
proposed
transfer of
charges.

Proposals for
introduction
of reforms.

Authority for
governors with
advice of
councils to
effect repairs
to buildings.

Establishments arises from the dispersion of the Convicts for the accommodation of the other Settlers, it appears to my Lords that the Expenditure in question may be most legitimately charged upon the Colonial Revenues. At the same time, they are prepared to acquiesce in the local Treasuries continuing in the receipt of any surplus of the Land Revenues beyond the Sums appropriated for the Assistance of Emigrants, and of the other casual Revenues of the Crown, and to allow the Colonies the benefit of the labour, in making roads or on other similar Public Works, of those more refractory Convicts who may be condemned to work in the Chain Gangs.

In conformity with these views, My Lords would suggest that directions should be conveyed to the Governors of New South Wales and Van Diemen's Land to take measures for providing from the Colonial Funds for the Charges that have been referred to, from and after the 1st July, 1835; and, on being apprised of Mr. Rice's opinion in regard to this arrangement, My Lords will take into consideration the expediency of stationing Officers of the Ordnance Department in the Australian Colonies to take charge of the Military and Convicts' Buildings and Stores, and whose Services might possibly be made available in the performance of any analogous Duties for the Civil Governments, and will convey any requisite directions and Instructions to the Officers and Departments under their immediate orders.

In the mean time it only appears necessary for My Lords further to observe, with reference more particularly to that part of the Dispatch from Governor Bourke, submitted to them in Mr. Lefevre's letter of 4th June last, which relates to Disbursements made for repairs of Buildings without the previous authority of His Majesty's Government, that, as the distant position of the Australian Colonies must continually render similar Disbursements unavoidable, they conceive it may be advisable to authorise the Governors of New South Wales and Van Diemen's Land to give directions, with the concurrence of their respective Councils, for the execution of such repairs as may be from time to time requisite for the proper maintenance of any of the Public Buildings, with the understanding that such directions are only to be given upon regular and specific reports of survey and Estimates; that this authority is not to comprize the erection of new Buildings or additions to existing Buildings, neither is it to be considered to warrant alterations in any Public Buildings, except in so far as they can be incidentally made in the course of any repairs that may be otherwise necessary.

I am, &c.,
F. BARING.

RIGHT HON. T. SPRING RICE TO GOVERNOR BOURKE.
(Despatch No. 40, per ship Lady Nugent.)

Sir, Downing Street, 15th November, 1834.

Despatches
acknowledged.

I have had the honor to receive your several despatches of the dates and numbers mentioned in the margin.*

The first of those enumerated relates to an application from Mr. Plunkett, the Solicitor General, for an augmentation of

* *Marginal note.*—No. 93, 5 Decr., 1833; No. 7, 24 Jan., 1834; No. 9, 24 Jan., 1834; No. 15, 21 Feby., 1834.

salary upon the ground that he is called upon to discharge a much larger portion of the duties of the Crown Lawyers than fairly falls to his share, many of which, he further states, do not belong properly to his Department.

1834.
15 Nov.

I have given my best consideration to the representations, which the Solicitor General has made upon this subject, both in his letter to my Predecessor and in the communications which he has addressed to yourself; but I regret to say that I do not perceive any circumstances in his case, which would justify the payment to him of any additional allowance from the Public, although I fear it will be out of your power to relieve him from those extra duties, so long at least as there exist the same reasons, which caused them originally to be exacted from him. It is, however, satisfactory to me to find that, notwithstanding the objections urged by Mr. Plunkett against an arrangement by which so much additional labor has been thrown upon him, he has not only acquiesced in performing it, but has signified his readiness to forward the Crown Business in whatever way you may think best for the advantage of the Public Service. But as, on the one hand, Mr. Plunkett is thus necessarily called upon to conduct a very material part of those duties, which, according to a fair distribution of the Business of the Crown Lawyers, had been assigned by the Judges to the Attorney General, so, on the other hand, will it be incumbent upon the latter officer to perform for the Solicitor General any of those duties, to which he may find it impossible to attend in addition to the other services required of him, and to the due discharge of which, on the part of the Attorney General, no real impediment may exist by reason of his infirmities.* I will only further observe that I see no alternative than to continue the arrangement, to which you have had recourse, for conducting the judicial Business of the Government, until circumstances may admit of the introduction of a more efficient system, when I shall not overlook the suggestion at the close of your despatch, vizt.: "that the appointment of a Barrister and a Crown Solicitor would be sufficient for the discharge of all the Crown Business of the Colony, the former receiving, as Attorney General, £1,200 a year and acting for the Crown in all cases at the Bar; and the latter, being an Attorney, receiving £800 to cover all charges for Clerks and performing all those duties which usually fall upon Attornies; it being understood that it should be a part of his duty to communicate with the Government in those numerous cases in which, though frequently not brought to trial, the Local

Refusal of increased allowance for J. H. Plunkett.

Distribution of duties between J. H. Plunkett and J. Kinchela.

Proposal by R. Bourke re appointment of barrister and crown solicitor.

* Note 142.

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15 Nov.

Government find it necessary to apply for the advice of the Attorney General, and to prepare written Abstracts of such cases for his opinion."

Suspension of
W. H. Moore as
crown solicitor.

I cannot but lament that Mr. Moore, the Crown Solicitor, should, by his neglect of duty and by his intemperate and highly indecorous conduct, have left you no alternative than to decide upon his suspension from Office. I am sorry to add that this does not appear to be the only time that complaints against Mr. Moore have been brought under the notice of His Majesty; and, although he was not visited with that rigour which the Officer then in the Administration of the Government considered his conduct to deserve, yet I must confess that the character of his subsequent proceedings, as detailed in the papers which you have transmitted, raises considerable doubt on my mind as to the expediency of the lenient course pursued towards him at that period.

Crown solicitor
to be nominated
in England.

The difficulty, which you state to exist of filling up this Office from any means within your reach in the Colony, and "the loose and imperfect manner in which the Business of the Crown Solicitor has been hitherto conducted," has determined me to send out a Gentleman from this country to undertake the office, the more especially as, in subsequently announcing to me Mr. Chambers' appointment to it "until further notice," I do not find in your despatch any observations respecting this Gentleman, from which it may be inferred that it was either your intention or wish that he should hold the situation permanently. I trust I shall experience no disappointment in my expectation of being able to select a Person for this Office, whose qualifications may be such as to add to its respectability, and thus enable you to remedy those inconveniences, which have resulted to the Local Government from the very "discreditable and disadvantageous manner" in which "the Crown Business, both in Court and out of Court, has been conducted."

Disallowance
of claim by
W. H. Moore
to annuity.

In reference to the claim brought forward by Mr. Moore to the payment of £300 a year, under an arrangement made with him by Lord Bathurst in the year 1814, as set forth in his Lordship's despatch to Governor Macquarie of the 5th of July of that year. I deem it sufficient that both Sir George Murray, in his despatch No. 43 of the 6th of June, 1830, and Lord Goderich in his Despatch No. 145 of 12th Decr., 1832, have decided upon its inadmissibility. But, were I disposed to take a different view of the subject, the consolidation of that allowance afterwards, with the salary of the appointment subsequently conferred upon Mr. Moore, wholly superseded the other arrangement; and Mr. Moore, having by his late misconduct forfeited that employment, cannot

now claim upon any ground, that is just or reasonable, to be placed in respect to that allowance upon his original footing. I enclose a copy of the letter (adverted to in Mr. Moore's application of the 14th Febrnary, 1834), which was addressed to Governor Macquarie on the 22nd of April, 1817, directing Mr. Moore to be reinstated in his Office, which proves, first, that the allowance of £300 a year was paid to Mr. Moore in consideration of his *holding an Official Situation*, and secondly, that it was to be continued to him only so long as his future conduct should prove him to be worthy of such indulgence.

Your despatch No. 9 of the 24th of January last relates principally to the appointment of Magistrates, and to the propriety of professional Persons being selected for such situations. I shall not fail to bear in mind your suggestions upon this subject; but, as you are already aware, great difficulty would attend the adoption of this measure, owing to the small salaries which the Stipendiary Magistrates now receive; for, without adding very considerably to the Judicial and Police Expenditure of the Colony, the present amount of which has very recently elicited complaints from the Colonists, it would be impossible to carry into effect the plan which you have recommended.

The evils pointed out in the letters addressed to you by the Judges, copies of which accompany your despatch, from the existing "hindrances and failures of Justice" are only susceptible of remedy by arrangements adopted in the Colony with the aid of an efficient Magistracy and of competent Crown Lawyers; and, as the Judges, themselves have pointed out those measures, which they consider the best calculated to place the Administration of Justice upon a better and more satisfactory footing, it only remains for me to instruct you to carry their suggestions into effect, so far as the means, at the disposal of the Local Government, will allow.

In the same despatch, you again incidentally advert to the importance of your receiving an Order in Council for the Establishment of Circuit Courts. The observations, however, which I may have to offer upon this subject, will with more propriety be deferred, until I shall be able to forward to you Instructions in reply to those of your former despatches, which relate, not only to the Establishment of Circuit Courts, but to the extension of Juries.

I have, &c.,

T. SPRING RICE.

[Enclosures.]

[These were copies of the despatch and its enclosure, dated 22nd April, 1817; see pages 385 and 386, volume IX.]

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Conditions of
employment of
W. H. Moore.

Difficulty
in appointing
professional
persons as
police
magistrates.

Administration
of criminal
justice.

Instructions re
circuit courts
withheld.

1834.
15 Nov.

UNDER SECRETARY HAY TO GOVERNOR BOURKE.
(Despatch per ship Lady Nugent.)

Sir, Downing Street, 15th Novr., 1834.

Transmission of
correspondence
with J. Rule.

I am directed by Mr. Secretary Spring Rice to transmit to you the copy of a correspondence, which has passed between this Department and Mr. Rule, who proceeded to New S. Wales as Surgeon of the female Emigrant Ship "Layton," in order that you may be in possession of the true state of the case, should he again apply to you for assistance.

I am, &c.,
R. W. HAY.

[Enclosure No. 1.]

MR. J. RULE TO MR. T. F. ELLIOT.

Sir, Sydney, N. S. Wales, 10th April, 1834.

Arrival of
J. Rule in
colony.

From the time of receiving your letter of the 12th April, 1832, containing an offer of a Grant of £24 on emigrating to this portion of the British Colonies, I endeavoured to procure a passage, and have at length arrived here with my wife and 3 Daughters, greatly disappointed in as much as I find no realization of the flattering prospects held out by the public press in England.

The Governor here informs me he has no power to appoint me to any Situation, and the Colony appears to be already with Medical Practitioners. On application for the Grant of £24, promised in your letter above referred to, I am told by the Col. Secy. it is paid in England. I, therefore, take the liberty to beg you will direct this sum into the hands of Messrs. Drewett and Fowler, Bankers, 60 Broad Street, London, for my use, and inform me thereof.

Request for
promised
subsidy.

I have, &c.,
J. RULE.

[Enclosure No. 2.]

UNDER SECRETARY HAY TO MR. J. RULE.

Sir, Downing Street, 14th Novr., 1834.

Your letter of the 10th of April last, addressed to Mr. Elliot, has reached this Dept., and I am directed by Mr. Secy. Spring Rice to transmit to you the following answer.

Conditions for
immigration
sent to J. Rule.

The letter, which you state to have received from Mr. Elliot on the 12th of April, 1832, appears to have been misunderstood by you. It conveyed to you a printed paper, dated 10th Oct., 1831, setting forth that young Women between the ages of 15 and 30 wd. be allowd. a grant of £8 each, towards the payment of their passages to the Australian Colonies; and Mr. Elliot further stated that you could receive no other assistance towards defraying the cost of your passage than the foregoing.

No further communication was received from you on the subject; but allow me to remind you that, in the Ship in which you proceeded to the Colony as Surgeon, your Daughters were allowed to enjoy a passage on the same terms as the female Emigts.; thus actually receiving a grant of £12 each, instead of £8. to which former Sum the bounty to female Emigts. had been raised, subsequently to the date of Mr. Elliot's letter to you.

Your request to be allowed £24 by way of further assistance cannot, under these circumstances, be complied with.

I am, &c.,
R. W. HAY.

RIGHT HON. T. SPRING RICE TO GOVERNOR BOURKE.
(Despatch No. 41, per ship Lady Nugent.)

1834.
16 Nov.

Sir, Downing Street, 16th November, 1834.

I have received your despatch No. 82 of the 5th of October last, enclosing a Memorial from Mr. Windeyer, praying that, in the event of Captain Rossi's retirement from the Situation of Superintendent of Police, he may as second Police Magistrate be appointed to succeed that Officer.

Refusal of
request from
C. Windeyer
for promotion.

You will express to Mr. Windeyer my regret that it is not in my power to hold out to him the promotion which he seeks, as, in case of Captain Rossi's retirement (which, however, that Officer does not appear to have finally determined upon), I am pledged to another Candidate, upon whom, without any disparagement to Mr. Windeyer's qualifications for undertaking its duties, it is my intention to confer the Appointment in question.

I am, &c.,
T. SPRING RICE.

RIGHT HON. T. SPRING RICE TO GOVERNOR BOURKE.
(Despatch No. 42, per ship Lady Nugent.)

Sir, Downing Street, 16th November, 1834.

I have received your Dispatch No. 34 of the 12th of April last, enclosing two Memorials from Mr. James Norris, late Store-keeper in the Dockyard at Sydney, soliciting a grant of Land in consideration of his Services and of his unexpected reduction in the year 1831; in reply to which, I have to request that you will inform Mr. Norris that I do not see any grounds for now complying with an application, contrary to the Regulations, which, had Mr. Norris originally possessed any claim to the Indulgence which he seeks, would no doubt have been granted by General Darling, notwithstanding Mr. Norris's deficiency of Capital, at the period that his employment in the Public Service ceased.

Refusal of
land grant for
J. Norris.

I am, &c.,
T. SPRING RICE.

RIGHT HON. T. SPRING RICE TO GOVERNOR BOURKE.
(Despatch No. 43, per ship Lady Nugent.)

Sir, Downing Street, 16th November, 1834.

As it not infrequently happens that, upon the augmentation or revision of a department under your Government, the Report of such new arrangement is unaccompanied by any statement shewing the actual encrease of expenditure which the alteration involves, I have to desire that, whenever you may have occasion to submit any measure of this nature to the Consideration

Statements
required on
augmentation
or revision of
departments.

1834.
16 Nov.

Statements
required on
augmentation
or revision of
departments.

of His Majesty's Government, you will take care, at the same time, to transmit Schedules of the existing and prospective state and expence of the Department about to be revised, in order that His Majesty's Government may be distinctly apprised of the extent of the alteration proposed to be effected, whether in the shape of encrease or reduction of Expenditure and Establishment.

I am, &c.,

T. SPRING RICE.

RIGHT HON. T. SPRING RICE TO GOVERNOR BOURKE.

(Despatch No. 44, per ship Lady Nugent.)

Sir,

Downing Street, 16th November, 1834.

Despatches
acknowledged.

I have had the honor to receive your despatches of the dates and numbers mentioned in the Margin* on the subject of certain arrangements, which you have adopted for the better Regulation of the Police in the Town of Sydney. I am so fully aware of the importance of maintaining an active and vigorous Police for the protection of Property and for the Summary repression of Disturbances, that I do not hesitate to approve of those arrangements; and I trust that the result will be attended by those advantages to the Public, which both the Council and yourself have anticipated.

Approval of
reforms in
police
department;

and of
provisional
appointment
of police
magistrate.

I have to approve of the provisional appointment of Mr. H. C. Wilson to discharge the duties of Chief Police Magistrate; and, in the event of Captain Rossi's retirement (which I have no doubt will ultimately take place, the terms upon which he had signified his intention of relinquishing that office having been in part complied with), you are authorized to place Mr. Wilson permanently in that situation, with the allowances which you have proposed to assign to him. At the same time, you will understand that, as Captain Rossi has not yet arrived in England or at least reported himself at this Department, Mr. Wilson's tenure of this office may possibly, although not probably, be affected by Captain Rossi's return to the Colony.

Appointment
of E. A. Slade
as barrack-
master.

With reference to the temporary Office of Barrack Master, which you have conferred upon Mr. Slade, I must remind you that this situation is one, to which the Lords Commissioners of the treasury appoint, and that it will therefore rest with their Lordships to fill up the vacancy whenever it shall take place, although I shall be happy to submit to their Lordships the name of any Person, whom you may recommend for it.

I am, &c.,

T. SPRING RICE.

* *Marginal note.*—No. 78, 2 Octr., 1833; No. 83, 23 Octr., 1833; No. 100, 5 Decr., 1833.

RIGHT HON. T. SPRING RICE TO GOVERNOR BOURKE.

(Despatch No. 45, per ship Lady Nugent.)

1834.
16 Nov.

Sir, Downing Street, 16th November, 1834.

I beg to acknowledge the receipt of your Dispatch No. 35 of the 15th of April last, reporting certain appointments which circumstances had compelled you to make in the Police Magistracy of the Colony under your Government. Despatch acknowledged.

I regret to learn that the very laudable design, which you had entertained upon your first arrival in the Colony of diminishing the number of Stipendiary Magistrates, should have been defeated by the state of Insubordination of the Convicts in some of the Districts; but, as the new Appointment, which you have made, and the two additions, which you anticipate as being necessary, will not, as you state, exceed the number which was sanctioned by Lord Goderich's Dispatch No. 62 of the 25th of January, 1832, I shall not offer any objection to them; although I cannot avoid expressing the hope that, if it should not be found possible to avoid making one or both of the additions last mentioned, this augmentation will be, at least, sufficient to ensure the tranquillity of the Colony, and that His Majesty's Government will not be called upon to give their consent to any further encrease of Expenditure on that head, the more particularly as, by the arrangements, communicated to you in my Dispatch of the 15th Inst., No. 39, for providing out of the Colonial Revenue for certain charges, which had been hitherto defrayed out of the Military Chest, the expence of any additional Appointments of the nature of those, to which I am now alluding, must be borne by the Colony. Appointment of stipendiary magistrates.

I am, &c.,

T. SPRING RICE.

RIGHT HON. T. SPRING RICE TO GOVERNOR BOURKE.

(Despatch No. 46, per ship Lady Nugent.)

Sir, Downing Street, 16th November, 1834.

I do myself the honor to acquaint you that I have appointed Mr. Francis Fisher to the situation of Crown Solicitor at New South Wales in the room of Mr. Moore, whose removal from that Office, under the circumstances reported in your Dispatch of the 24th of January last, has been approved by His Majesty. Appointment of F. Fisher as crown solicitor.

I am, &c.,

T. SPRING RICE.

RIGHT HON. T. SPRING RICE TO GOVERNOR BOURKE.

(Despatch No. 47, per ship Lady Nugent.)

Sir, Colonial Office, 17th Novr., 1834.

I have the honor to acquaint you, with reference to your Dispatch of 30th November, 1833, No. 93, that I have had much

17 Nov.

1834.
17 Nov.

Approval of
appointment of
J. Anderson.

pleasure in confirming Major Anderson in the appointment, which you had provisionally conferred upon him of Commandant at Norfolk Island in the room of Colonel Morisset, who had signified his wish of being relieved from the duties of that Situation; It being of course understood that Major Anderson's Emoluments are diminished to the scale at which you have fixed them.

I have, &c.,

T. SPRING RICE.

UNDER SECRETARY HAY TO GOVERNOR BOURKE.

(Despatch per ship Lady Nugent.)

20 Nov.

Sir,

Downing Street, 20th November, 1834.

No free women
on ship
Amphitrite.

I am directed by the Secretary of State to acquaint you in reply to your despatch No. 36, of the 16th of April last, that no free women were embarked in the Ship "Amphitrite," which was wrecked off the Coast of France in the month of August, 1833.

I am, &c.,

R. W. HAY.

UNDER SECRETARY HAY TO GOVERNOR BOURKE.

(Despatch per ship Lady Nugent.)

25 Nov.

Sir,

Downing Street, 25th Novr., 1834.

Proposed
branch of
ordnance
department.

With reference to Mr. Spring Rice's Dispatch of the 15th Instant, No. 39, I am directed by the Secretary of State to forward for your Information the Extract of a Letter from the Secretary to the Treasury, enclosing a Minute of that Board shewing the further steps which have been taken for giving effect to the proposed measure of establishing a branch of the ordnance Department at New South Wales. You will perceive also that their Lordships have sanctioned the various Arrangements, which have been reported by you upon the transfer of the Military and Convict Buildings to the care of the Commissariat Officers (which, however, will only be now of a temporary nature), as well as those for the establishment of an effective Police in the Town of Sydney, as reported in your Dispatch of the 30th October, 1833.

I have, &c.,

R. W. HAY.

[Enclosure.]

EXTRACT of a Letter from Mr. Stewart, dated Treasury Chambers, 20th Novr., 1834, addressed to Mr. Hay.

"I AM commanded by the Lords Commissioners of His Majesty's Treasury to transmit to you a copy of their Lordships' Minute of 14th Inst. and to request you will submit the same to the Secretary of State for his information with reference to the Communications that have at different times taken place between the Colonial

Proposed
branch of
ordnance
department.

Approval of
arrangements
for transfer
of military
and convict
buildings.

Department and this Board, respecting the employment of an Ordnance Establishment in the Australian Colonies.

1834.
25 Nov.

"My Lords will not fail to apprise the Secretary of State of the further steps they may take in this matter; and in the mean time they see no reason for withholding the assent of His Majesty's Government from the various arrangements and appointments that have been reported by the Governor of New South Wales and Van Diemen's Land, upon the transfer of the Military and Convict Buildings to the care of the Commissariat Officers, and will obviously now only be of temporary duration.

Approval of transfer of military and convict buildings;

"I have further to request you will acquaint the Secretary of State that, subject to the recent determination of His Majesty's Government, in regard to the Fund from which the Police charges in the Australian Convict Settlements should in future be defrayed, my Lords see no reason for withholding the sanction of His Majesty's Government to the arrangements, reported in Major General Bourke's Dispatch of 2d Oct., 1833, to have been adopted for the Establishment of an effective Police Force in the Town of Sydney under the Enactments of the Ordinance of the Legislative Council at New South Wales submitted to them in Mr. Lefevre's Letter of 15th July last."

and of reorganisation of police force for Sydney.

[Sub-enclosure.]

COPY OF TREASURY MINUTE, DATED 14TH NOVR., 1834.

READ Letter from Mr. Stephen, dated 16th Ulto., in reply to a Letter of this Board of the 23rd Sept., and stating that Mr. Secretary Spring Rice concurs with their Lordships in the propriety of calling upon the local Legislatures of New South Wales and Van Diemen's Land to provide, with certain exceptions, from and after the 1st July, 1835, for those portions of Expenditure, from which the Colonial Funds were relieved by the arrangement adopted in the year 1827, and that directions will be conveyed to the respective Governors of those Colonies accordingly, and that those officers will also be informed that measures will be taken for stationing there a Branch of the Ordnance Department for the purpose of taking charge of the several public Buildings, which have been lately placed under the superintendence of the Commissariat Department.

Proposal for branch of ordnance department in colony.

My Lords read their Minute of 19th Sept. last on the subject of the Establishments in the Australian Colonies, and resumed the consideration of the arrangements connected with the custody and charge of the Public Stores and Buildings, and with the employment of a Branch of the Ordnance Department in those Colonies.

Write to the Secretary to the Ordnance, desiring he will state to the Master General and Board, with reference to the communications that have at different times taken place between that Department and my Lords' Board and the Secretary of State, respecting the employment of an Ordnance Establishment in the Australian Colonies, that His Majesty's Government have decided upon the adoption of arrangements for separating the Expenditure for the Military and Convict Establishments in those Colonies from the Police and various other charges, which have hitherto been likewise defrayed through the Military Chests from the Funds of this Country; and, in pursuance of these arrangements, My Lords conceive it will be advisable that the charge of the Military Buildings and Stores, and of the Buildings occupied by the Convicts, and the

1834.
25 Nov.

Proposal for
branch of
ordnance
department
in colony.

Stores and Clothing required for the use of the Convict Establishments, the expenditure relating to which services will continue to be borne by this Country, should be placed under the charge of Officers of the Ordnance Department.

My Lords do not apprehend that there are any Military Works in these Colonies of sufficient importance to call for the presence of Detachments of the Artillery or Engineers on Military Grounds; and they consequently conceive it will only be necessary to employ such Ordnance Establishments on the Station, as shall be competent to the charge of the Buildings and Stores before mentioned.

My Lords trust that, with the information which the returns and reports of survey and other Documents relating to the Buildings, now forwarded to the Master General and Board, will afford in regard to the duties to be executed in this branch of the Service, and which they possess in their own Departments respecting the quantities and descriptions of Stores transmitted to the Colonies, the Master General and Board will be enabled to form a sufficiently accurate judgment of the duties to be executed, and of the extent of Establishment they will be likely to require, and to take immediate steps for dispatching to New South Wales and Van Diemen's Land the superior Officers it will be necessary to employ on the Stations, as the transfer of the charges for the Police and other Services to the Colonial Funds is to take place from the 1st July, 1835, and it would be most desirable that the other arrangement should take effect at the same period. With respect to the subordinate situations both in the Building and Store Departments, my Lords would suggest that they may be filled by persons, who have already been engaged in those respective Branches of the service in the Colonies, and that it will consequently not be necessary to send persons from this Country for that purpose.

It is my Lords' intention that the Expenditure for Barracks and Military Stores and Military Buildings in the Australian Colonies should hereafter be provided for by the Ordnance Department in the usual manner; but, as the information that can now be obtained respecting the extent of the Expenditure under this head will probably be very defective, they conceive that it must continue at least for the ensuing year to be defrayed as heretofore out of the Grant for New South Wales Bills. My Lords have, therefore, only to request that the Master General and Board will specifically provide in the Ordnance Estimates for the Salaries of the Officers sent from hence; at the same time, they feel assured that the Master General and Board will be fully impressed with the necessity for the observance of the strictest economy, both in regard to the remaining unestimated Military Expenditure, and to the other charges to be defrayed from the general Fund; with reference to which they may remark that the services of the Convicts Mechanic and Labourers maintained by the Public will be available in the execution of any requisite works and repairs, so far as may be consistent with the regulations, the Governors of the Settlements may have been instructed to adopt with reference to the discipline of the Convicts, and to the encouragement of the local Trading Establishments by having recourse, as frequently as possible, to Public Competition in the execution of Works by Contract.

Upon being apprized of the arrangements, the Master General and Board may deem it advisable to adopt for carrying on the services now in question, my Lords will forward directions to the

Expenditure
on military
stores and
buildings.

respective Governors and Commanding Officers and to the Commissaries on the Stations in regard to the transfer to the Ordnance Officers of the charge of the Buildings and Stores and the supplying those Officers with the requisite Funds.

Let the several Reports of Survey and Lists of Buildings, referred to, be forwarded with this Letter to the Secretary of the Ordnance.

1834.
25 Nov.

UNDER SECRETARY HAY TO GOVERNOR BOURKE.

(Despatch per ship Lady Nugent.)

Sir, Downing Street, 28th Novemr., 1834.

28 Nov.

With reference to Viscount Goderich's Dispatches to you of the 6th of March and 12th of August, 1832, I am directed by the Secretary of State to transmit herewith for your Information the Copy of a Communication from the Lieutenant Governor of Van Diemen's Land, relative to the adjustment of the Accounts between that Government and the Colony over which you preside.

Adjustment
of accounts
between New
South Wales
and Tasmania.

I also transmit to you the Copy of a letter from the Secretary to the Board of Treasury upon the same subject, with its enclosure from the Commissioners of Audit; and I am to request that, as soon as you shall be in possession of the statement of receipts and disbursements with which the Colonial Agent has been directed to furnish you of all his receipts and Disbursements, together with the additional Information, which he has been called upon to supply in compliance with the suggestions of the Auditors, you will place yourself in communication with Colonel Arthur in order to bring the question at issue to a speedy and satisfactory conclusion, in the manner pointed out in their report to the Board of Treasury, of which an Extract accompanies Mr. Baring's Letter.

I have, &c.,

R. W. HAY.

[Enclosure No. 1.]

LIEUT.-GOVERNOR ARTHUR TO RIGHT HON. E. G. STANLEY.

Van Diemen's Land.

Sir, Government House, 12th March, 1834.

With reference to Lord Goderich's Dispatches of the 24th March, and 6th August, 1832, I have the honor to submit the following remarks for your consideration.

It appears that the Commissioners of Audit had stated but upon what data has not been shewn, that at the end of 1829 the Disbursements made by the Colonial Agent in London, during that and the three preceding years for the service of Van Diemen's Land out of the common Funds of the Agency, exceeded the remittances from this Colony by £9,512 15s. 11d.

Expenditure
by agent for
service of
Tasmania.

From Mr. Barnard's Letter to Mr. Hay of the 24th May, it seems that the Balance in his hands on that day to the credit of both Colonies was £18,779 17s. 6½d., of which he supposes £7,586 10s. 6½d. to belong to New South Wales, and £11,193 7s. to this Colony.

1834.
23 Nov.

Want of
settlement
of accounts
between
colonies.

But you will perceive, on reference to the documents, that a Balance has never yet been struck between New South Wales and Van Diemen's Land, and that Mr. Barnard states that he is unable to adjust the accounts between the Colonies, from which it follows that the sum of £9,512 15s. 11d. should still be credited to Van Diemen's Land, subject to a final settlement, more especially as the local Auditor for Van Diemen's Land has not yet admitted the existence of any such Debit on the part of this Colony.

On the 24th May therefore, Mr. Barnard's account should have stood thus, present Balance for Van Diemen's Land £18,779 17s. 6¼d., diminished by £1,926 5s. 4¼d., advanced on account of New South Wales, and with which that Colony is to be debited on a settlement of accounts.

Statement
required for
adjustment
of accounts.

Under these circumstances, and in order to enable the Colonies to adjust these accounts between themselves, in furtherance of Lord Goderich's instruction of the 6th August, 1832, I have the honor to suggest that any transfer to the credit of New South Wales would as yet be premature, and that Mr. Barnard should be directed to transmit to each Colony a statement of all receipts and disbursements whatsoever made by him out of the common Funds of the Agency, in order that it may be ascertained to which Province they should be respectively charged, when an adjustment, by means of a Draft upon the Agent for any Balance that may be proved, might easily be made by the Colonies between themselves without Mr. Barnard's further intervention. I have, &c.

GEO. ARTHUR.

[Enclosure No. 2.]

MR. J. BARING TO UNDER SECRETARY HAY.

Sir, Treasury Chambers, 25th November, 1834.

Arrangements
proposed for
adjustment
of accounts.

I am commanded by the Lords Commissioners of His Majesty's Treasury to transmit to you an extract from a Report of the Commissioners of Audit, dated 11th Inst., suggesting certain directions to the Colonial Governments and Agent for New South Wales and Van Diemen's Land, in regard to the balancing of the Accounts between those Colonies, in order that it may be submitted to the Secretary of State, with reference to Mr. Stephen's Letter of 29th Ultimo, with their Lordships' request that directions may be given to the Agent and to the Colonial Governments in conformity with those suggestions.

I am, &c.,

J. BARING.

[Sub-enclosure.]

EXTRACT from Report of the Commrs. of Audit, dated
11th November, 1834.

"WE now observe from Mr. Stephen's Letter of 29th Oct., 1834, that, in consequence of the representation of Coll. Arthur, Mr. Barnard has been directed to furnish the respective Governments of New South Wales and Van Diemen's Land, with a Statement of all his Receipts and Disbursements out of the common Funds of the Agency, with a view to an adjustment of the accounts between the two Colonies; a course of proceeding in the propriety of which we fully concur; and, in order to bring the question at issue to a satisfactory and speedy conclusion, we would further recommend

that, in addition to the above statement, Mr. Barnard should be directed to put the two Governments in possession of the appointment of the Balance as made by him, together with the grounds upon which the same was made; and that the respective Governments should be instructed to communicate together on the subject; and, in case of their coming to an agreement as to the equitable adjustment of the Balance, that they should apprise the Secretary of State of the terms of the arrangement upon which they are agreed; and in case of their not agreeing, that they should each of them state the manner, in which they consider the Balance should be divided by them respectively, together with the grounds upon which they differ in opinion."

We have, &c.,

F. S. LARPENT.
J. WHISHAW.
H. F. LUTTRELL.

1834.
28 Nov.
Arrangements
proposed for
adjustment
of accounts.

UNDER SECRETARY HAY TO GOVERNOR BOURKE.

(Despatch marked "Private," per ship Marquis of Huntley.)

My dear Sir,

Downing St., 1 Decr., 1834.

1 Dec.

Long before you can receive the Enclosed Circular, the necessity for its circulation will have ceased; I have thought it right however that you should be apprised of the change that has taken place, as you might otherwise be at a loss to know to whom the administration of our Colonial Affairs has been entrusted.

Transmission
of circular.

Yours very sincerely,

R. W. HAY.

[Enclosure.]

UNDER SECRETARY HAY TO GOVERNOR BOURKE.

Sir,

Downing Street, 29 Novr., 1834.

The Public Prints will have informed you that Lord Melbourne's Administration has been dissolved, and you will have learnt from the London Gazette that the Duke of Wellington has been appointed by His Majesty First Lord of the Treasury and Secretary of State. This appointment is only to be considered ad Interim, until the return to England of Sir Robert Peel, when a new Administration will be formed and a Successor to Mr. Spring Rice, who is no longer in the discharge of the duties of this office, be appointed as Colonial Secretary.

Appointment
of duke of
Wellington
as secretary
of state.

His Grace has not deemed it to be expedient that any Official Notification should be made to the Colonial Authorities abroad of an appointment of so provisional a character as that which he is now filling; but it has appeared to me desirable that you should receive from some authority an intimation of the present posture of affairs at home, which may serve to account for the delay which must take place in the replies to your dispatches, and to point out to you that, until you receive further Instructions from home you should address such communications as you may wish to make to His Majesty's Government to the Secretary of State for the Colonial Department.

I have, &c.,

R. W. HAY.

GOVERNOR BOURKE TO RIGHT HON. T. SPRING RICE.

1834.
1 Dec.(Despatch No. 118, per ship British Sovereign; acknowledged by
lord Glenelg, 5th May, 1835.)

Sir, Government House, 1 Decbr., 1834.

Despatch
acknowledged.

I have had the honor to receive the Despatch of Mr. Stanley, dated the 13th May last, No. 76, stating in reply to my Despatch of the 4th of October preceding, No. 81, that he could not feel himself warranted in charging the public with the expence of a Clerk in addition to the Salary assigned to the Archdeacon.

Employment
of clerk for
senior chaplain.

During the absence of the Archdeacon, however, the senior Chaplain discharges without salary the duty for which the assistance of a Clerk was demanded. I have therefore thought it allowable, and not inconsistent with the tenor of Mr. Stanley's Despatch, to continue the Clerk until the return of the Archdeacon but no longer; and I trust this arrangement will meet with the concurrence of H.M. Government.

I have, &c.,
RICHD. BOURKE.

GOVERNOR BOURKE TO RIGHT HON. E. G. STANLEY.

(Despatch No. 119, per ship British Sovereign.)

2 Dec.

Sir, Government House, 2d December, 1834.

Despatch
acknowledged.

I have had the honor to receive the Circular Despatch of the 15th May last, forwarding Copies of Minutes of the Lords Commrs. of H.M. Treasury and Reports of the King's Assay Master and Probationer Assayer respecting the values of South American Dollars, and desiring that I would take such steps as might appear to me most advisable for removing any prejudice against the employment of the Coins in question in New South Wales. I beg leave to state that these coins have never appeared here; and, as the use of Dollars has been almost entirely superseded by British Silver Money and it seems desirable that such should continue to be the case, I have not thought it necessary to adopt any measure on the subject of the Despatch referred to.

Absence of
South American
dollars from
circulation.

I have, &c.,
RICHD. BOURKE.

GOVERNOR BOURKE TO RIGHT HON. T. SPRING RICE.

(Despatch No. 120, per ship British Sovereign.)

3 Dec.

Sir, Government House, 3rd Decr., 1834.

Referring to your Despatch of the 29th June last, by which my attention is called to the desire expressed by the Directors of the Australian Agrl. Company for the appointment to the

Magistracy of their Commr. Lt. Col. Dumaresq, I have the honor to inform you that, upon the application of that Gentn. shortly after his employment of Commissioner had commenced, I appointed him to be a Justice of the Peace. I have, &c.,

1834.
3 Dec.

Appointment of
H. Dumaresq as
justice of peace.

—————
RICHD. BOURKE.

DUKE OF WELLINGTON TO GOVERNOR BOURKE.
(Despatch No. 1, per ship Marquis of Huntley.)

Sir,

Downing Street, 5 Decr., 1834.

5 Dec.

I have to acknowledge the receipt of your dispatch No. 45 of the 5th of May last, transmitting a copy of the Minutes of the Proceedings of the Executive Council in reference to the Division into Counties of a considerable part of the Territory of New South Wales, pursuant to the King's Instructions, together with a Report of the Surveyor General, and a general Map of the Colony containing a description of their proposed Boundaries.

Despatch acknowledged
re division of
colony into
counties.

The point, to which you call the attention of His Majesty's Government and solicit further directions upon, refers to the dimensions of the Counties, several of which exceed, according to the limits proposed by the Surveyor General, the maximum extent which had been originally prescribed by His Majesty's Government, a deviation however to which I am not disposed to attach much importance, when compared with the advantages which must result from circumscribing the Counties by natural boundaries; and, as it appears to be the opinion not only of yourself but of your Council that no better arrangement than that pointed out by the Surveyor General in this respect could be adopted, I have to convey to you His Majesty's Approbation of the proposed Divisions, with such modification of the limits of the Counties of Gloucester and St. Vincent, as, upon further communication with the Surveyor General, may be found practicable without losing sight of the same desirable object.

Approval of
divisions
proposed.

With the view of giving greater Solemnity to the completion of a Work, which, after so long a delay, has been accomplished, His Majesty has been graciously pleased to acquiesce in the recommendation of the Council to establish by Letters Patent the Division of the Territory as thus proposed; and you will therefore, immediately upon receiving this dispatch or as soon after as may be possible, issue such an Instrument under the Great Seal of the Colony for giving effect to its objects; subsequently proclaiming, without waiting for further Instructions from His Majesty's Government and when finally measured by the Surveyor General, the other two Counties, the boundaries of which it has not yet been possible to define.

Letters patent
to be issued.

1834.

5 Dec.

Permission for
publication
of map by
T. L. Mitchell.

In reference to the request of the Surveyor General, which forms the concluding subject of your dispatch, to be allowed to dispose of, for his own advantage, the Map* of the Colony which he has lately completed, and engraved at his own expence, I beg to acquaint you that, although it would have been more regular, had he forwarded the Manuscript of his Map to this Country, and waited until he received an answer to his request to publish it, before he took any steps for engraving it, yet His Majesty will not under all the circumstances of the case object to comply with the application, which the Surveyor General has submitted through you upon this subject, nor refuse his Patronage to a Work, upon which so much care and labor has been bestowed, and care will be taken that the object of that Officer is not defeated by permitting any part of its contents to be pirated by any Printer or Publisher of Maps in this Country.

Copies of map
to be purchased.

I have further to authorise your taking Twenty copies of this Map, at the Selling price, for the use of the Public Departments of your Government, as requested in your despatch.

I am, &c.,

WELLINGTON.

GOVERNOR BOURKE TO RIGHT HON. E. G. STANLEY.

(Despatch No. 123, per ship *British Sovereign*; acknowledged by lord Glenelg. 28th October. 1835.)

6 Dec.

Rescue of
captives from
Maoris.

Sir,

Government House, 6 Decr., 1834.

By my Despatch of 18th Sepr. last, No. 97, I had the honor to Communicate the measures which had been taken, with the advice of the Executive Council, for recovering from the hands of a Tribe of New Zealanders the survivors of the crew of the Barque *Harriet*, wrecked upon their Coast. I have now the satisfaction to report that the object of the Expedition has been accomplished without any loss on the part of those employed in the service, though I regret that the obstinacy of the Zealanders rendered it necessary to use force to compel them to give up the Captives. I transmit herewith a copy of the Colonial Gazette† of the 3rd inst., in which the Despatches of Captn. Lambert R.N. and Captn. Johnstone 50th Regt., detailing their proceedings at length, are published for general information.

Necessity for
ship of war
on station.

Notwithstanding the favorable result of the measure which I found myself under the circumstances constrained to adopt, I see no reason for departing from the opinion I ventured to express in my last Despatch‡ on the affairs of New Zealand. I consider it essential to the success, perhaps to the existence of the trading establishments formed on that Island, and to the maintenance of good order on its Coasts, that one of H.M. Ships

* Note 106.

† Note 143.

‡ *Marginal note.*—8 Sep., 1834, No. 97.

of War should be appointed for those seas. The Authority of the Resident at the Bay of Islands, to which you refer in your Despatch of the 8th July last, No. 10, is, I am sorry to say, almost totally disregarded by Europeans frequenting his station; and he has failed to form so close a connexion with the native chiefs as to command their aid, when occasion requires the use of force to restrain lawless violence or fraud. Nor, if he had acquired the confidence and could rely on the cooperation of the chiefs, has he yet obtained the legal power, with which it was proposed to invest him, to apprehend and commit for trial in New S. Wales those of H. Majesty's Subjects, who offend against British Law in New Zealand. Accordingly the state of affairs in the Northern Part of the Northern Island, where it was hoped Mr. Busby's presence would have been advantageous, seems to be in no respect improved nor likely to be so, nor has he been able to accomplish any of the objects pointed out to him in my Instructions. With the Act of the British Parliament to which I have referred, and a Ship of War at hand to aid his endeavors, it is possible something might be effected by the Resident for the suppression of Crime and Security of property and ultimately for the civilization of the native Tribes; but, as the matter now stands, the appointment is ineffectual. I would therefore very respectfully beg leave to repeat my opinion that, if measures, such as I have suggested or as the wisdom of H.M. Govt. might devise for giving effect to Mr. Busby's Commission, cannot for sufficient reasons be adopted, it will be more creditable to withdraw him altogether and intimate to the British residing in New Zealand that they are not to expect the protection of H.M. Govt. in that country.

I have, &c.,

RICHD. BOURKE.

1834.
6 Dec.

Failure of
J. Busby
as resident in
New Zealand.

Proposed
withdrawal
of resident.

GOVERNOR BOURKE TO UNDER SECRETARY LEFEVRE.
(Despatch marked "Private," per ship British Sovereign.)

Government House,

Dear Sir, Sydney, 6th December, 1834.

With reference to your letters of the 26th May and 1st June last, as also to a letter from Mr. Hay of the 28th December last, severally enclosing copies of applications from creditors of Mr. Kinchela, and requesting, by desire of Mr. Stanley, that I would call the attention of that Gentleman to their contents, I have now the pleasure to transmit a letter which I have received from him explanatory of his conduct with reference to these demands.

I remain, &c.,

[Enclosure.]

RICHD. BOURKE.

[A copy of this letter is not available.]

Transmission
of letter from
J. Kinchela.

GOVERNOR BOURKE TO RIGHT HON. T. SPRING RICE.

1834.
9 Dec.(Despatch No. 125, per ship British Sovereign; acknowledged by
lord Glenelg, 23rd June, 1835.)

Sir, Government House, 9 Decr., 1834.

Superintend-
ence of iron
gangs by
military
officers.

Having, in the Despatches specified in the margin,* in-
formed you of the arrangements I had made and proposed to
make for placing under more efficient regulation and control
the Convict gangs sentenced to labor in Irons on the roads and
public works of the Colony, I have now the honor to acquaint
you that, in conformity to the intimation contained in my Des-
patch of the 15th January last, I have begun to put some of these
gangs under the superintendence as well as the guard of a
Military Officer. I have been enabled to commence this arrange-
ment in consequence of the allotment of part of a third Regi-
ment of Infantry to this Command. The object, I have princi-
pally in view in appointing Military officers to the superintend-
ence of these gangs, is the attainment of unity of operation by
placing under one head the Stockade or assemblage of Wooden
Huts in which the gang of these men is confined. Some slight
collision had at times arisen between the Civil Superintendent
and officer or Non Commd. Officer, Commanding the Guard,
which was at least inconvenient, if not injurious to the service.
I have further to observe that there will result from this arrange-
ment some saving of expence. The officer in Command of a
Guard over a gang of this sort usually receives 4s. a day in
consideration of the expence, to which he is put by the remote-
ness of the station and of the want of Barrack Accommodation
or any Field allowance. The Civil Superintendent is also
allowed 4s. a day. I propose to give the officer 6s. for both duties.

Allowances
granted to
officers ;

It may be possible in certain situations to place two Stockades
under one officer, in which case I propose to allow him one shil-
ling a day to cover all travelling charges for visiting the Stockade
at which he does not reside. The Constables under the Civil
Superintendent receive 2s. 3d. daily. I propose to give a
N. C. Officer for the same duty the extra pay of 1s., and, where
it is necessary to employ a clerk for keeping Books and Returns,
I propose to give to a N. C. Officer or Soldier 6d. a day. These
allowances are to be borne on the Convict abstract of the Colony.

and to officials
employed on
stockades.Officers to be
appointed
justices of
peace.

It is also my intention to appoint the officer to the Commission
of the Peace, which will enable him to keep his gang under due
subjection by the application of immediate Punishment to all
refractory offenders. As the number of Convicts arriving from

* Marginal note.—3 Novr., 1832, No. 114; 15 Jan., 1834, No. 1.

England under sentence to labor in Irons is rapidly increasing, as is also the number of those similarly sentenced in the Colony, it becomes a matter of the highest importance to place these criminals under sufficient control. I have had occasion to mention in another place that the augmentation of numbers, produced by Colonial Sentences to labor on the roads or Public Works, is mainly occasioned by the substitution of this sentence for banishment to a penal Settlement, the former being so much more productive to the Public.

1834.
9 Dec.
Increase of
convicts
sentenced to
labour on roads.

I have therefore to hope you will approve of the arrangement I propose, and authorize the allowances to the officers and N. C. Officers, who may be thus employed. The number of gangs must of course be regulated by the numbers of Criminals under sentence.

I have, &c.,

RICHD. BOURKE.

GOVERNOR BOURKE TO UNDER SECRETARY LEFEVRE.

(Despatch per ship British Sovereign.)

Sir, Government House, 12 Decr., 1834.

12 Dec.

With reference to the application from the wife of Mr. John Gray, Pilot and Deputy Harbour-Master of this Port, a copy of which accompanied your letter of the 24th March inst., complaining that the allowance which her husband had agreed to make to her out of his Salary had not been received since the 30th Sepr., 1832, I have the honor to inform you that this allowance has been regularly paid here by Mr. Gray. Thirty-Six Pounds, the amount of one year's allowance, were remitted by the Colonial Secretary to the Colonial Agent, Mr. Barnard, on account of Mr. Gray for the use of his wife on the 29 Novbr., 1833, which appears by her written acknowledgement since received here to have been paid to her on the 16 May, 1834. The Colonial Treasurer reports that he has likewise received £9 from Mr. Gray for the same purpose on each of the days specified in the margin* during the year 1834.

Payment of
allowance to
wife by
J. M. Gray.

It appears therefore that there has been no delay in this matter beyond that which has attended the transmissn. of the money through the public offices in this Colony and in England. It should in future be remitted from hence to the Colonial Agent in quarterly payts. as received.

I have, &c.,

RICHD. BOURKE.

* Marginal note.—15 Janry.; 5 April; 16 July; 7 Octr.

GOVERNOR BOURKE TO RIGHT HON. T. SPRING RICE.

(Despatch No. 126, per ship British Sovereign; acknowledged by Lord Glenelg, 11th July, 1835.)

Sir, Government House, 14 Decbr., 1834.

In my Despatch of the 19 Sept. last, No. 93, I transmitted for your information the Copy of a Petition to His Majesty obtained through a private channel, the Petition having been for some months, as I understand, circulated with great caution in the Hunter's River District and Elsewhere in the Colony, with such reserve indeed that some difficulty was experienced in obtaining a copy.* I have now to forward what is intended, I imagine, to have the effect of the original. It is however on a Separate sheet from the signatures, which, though few in number, are on several detached pieces. In a letter addressed to yourself by some of the Petitioners, it is called a copy; but various discrepancies between the Copy handed about to the Subscribers, transmitted as before mentioned, and the present Document would seem to deprive it of even this character. One of the alterations, which have been made, would appear to have been suggested by the observations contained in a Pamphlet† recently published, in which this Petition was criticised. It was pointed out by the author of that Pamphlet that the Petitioners were so grossly ignorant of the very subject of their own grievance that they omitted all mention of the Act, which really bestowed on them the power for the loss of which they complained, thus vindicating one of the principal reasons for the change in the Law, namely, the manner in which the detached ordinances were confounded and mistaken by the Magistrates. This error has been rectified in the Copy now brought forward. I cannot however regard it as a mere clerical inaccuracy, which any gentleman was entitled to correct consistently with good faith, after the Petition had been signed. With regard to the impression to be conveyed to His Majesty of the care and attention bestowed on the subject of which the Petitioners undertook to complain against this Government, circumstances which must necessarily form a most important consideration in judging of the weight to be allowed to their complaint, the alteration in question most essentially affects the merits of their case. Another change, besides the correction of some inaccuracies as to dates, is the mention of 12 months instead of six (the original word according to the copy which I obtained and forwarded) as the time during which the experience of the Petitioners is said to have corroborated their opinions,

Petition from
settlers at
Hunter river.

Alterations
in copies of
petition.

* Note 144.

† Note 137.

first expressed in their Petitions to the Council presented in Augt., 1833. The Petition is itself without date, and this is therefore the only clue afforded to the time at which the Petrs. are supposed to address H.M. I have however the strongest possible ground for affirming that the Petition was handed about for signature long before 12 months had elapsed from the presentation of their Petitions to the Council. Before this additional experience could be appealed to with truth, the views of many of the Petitioners may have been materially changed on the subject of complaint, and I have reason to believe that such is the fact.

1834.
14 Dec.

Date of
circulation
of petition.

In truth, the whole of the proceeding, from which the Documents now transmitted have resulted, is of so unusual a description and so unlike the fair and open exercise of the constitutional right of Petition that I may be excused for stating a few additional circumstances respecting it. I am told that, in the month of February last, a meeting of a few persons not called by advertisement in the Newspapers or other public notice took place at a small Inn on the road between Maitland and Patrick's plains; that subsequently a Petition was prepared by some Persons unknown, and, after being taken about with great caution for signatures for several months, no copy being allowed, as I am informed, to the generality of subscribers, it was found to require explanation and comment, and accordingly was illustrated and explained by seven Commentators on the 26th of August last in the Letter addressed to the Secretary of State for the Colonies and now forwarded. The Petition and commentary were then transmitted by the Commentators to a Deputy in Sydney, who finally forwarded them to the Colonial Secretary on the 4th of Decbr. instant. It is stated in the Commentary, which is dated the 26th August, that the Petn. "had been transmitted to the Governor." Such is not the fact. It was not delivered to the Colonial Secretary for me until the 4th instant; and I avail myself of the first opportunity that has since offered for its transmission to England. The use, which may have been made of the time that intervened between the 26th August and 4th Decbr. for the further correction of the Petition, has been already pointed out.

Preparation
of petition.

Transmission
of petition to
R. Bourke.

The Petition, with less than 100 signatures from one District of the Colony only, was thus ten months in preparation. The Commentary, it should be observed, is signed by seven persons who take upon themselves to express the opinions of the Petitioners for which they produce no warrant. I may assert, I

Signatures to
petition and
commentary.

1834.
14 Dec.

Probable public
opinion *re*
petition.

believe, with perfect propriety that, were the statements of this Petition and of the Commentary to be brought under the consideration of the Colonists at a public meeting duly convened, they would be indignantly rejected as opposed to reason and truth.

Such being a brief and I believe a correct outline of the manner in which this Petn. has been got up, I shall now proceed to notice the matter. For this purpose, I shall principally regard 3 points, and shall, I think, be able to shew to your satisfaction and in direct contradiction to the statements contained in the Petition,

Refutation of
statements
in petition.

1. That, in the year 1832, the Criminal Law of the Colony affecting Convicts required amendment.

2. That the amendment, which then took place, was prudent and judicious and did not impair the due efficiency of the Criminal Code.

3. That, the amended Law having been now more than two years in operation, the security of the Colonists has been less disturbed by violence and outrage than in former years, and the demeanour of the Convicts, notwithstanding the great augmentation of their numbers, is represented by the Magistrates to be in general quiet and orderly.

Necessity for
amendment of
criminal law
relating to
convicts.

Upon the first point, I had the honor to communicate* with H.M. Govt. on transmitting the act under consideration for the allowance of His Majesty. I then stated that the illegal sentences daily passed by Magistrates upon Convicts, and which I attributed chiefly to the confused state of the Law affecting Convict punishment, dispersed as they were through four separate ordinances, had convinced me of the necessity of an Act of Consolidation and amendment. When this statement was made, I had no reason to imagine that the correctness of my opinion could ever be called in question, the amended Law having been passed by an unanimous vote of the Council and without the slightest opposition from any portion of the Public.

Convicts
illegally
sentenced by
magistrates.

The Petitioners having now asserted that the change was "un-called for," while the Commentators have explicitly denied that the alteration was accompanied by any evidence of oppression or inconvenience in the operation of the existing statutes, I now beg leave to transmit, in support of my original statement, Lists of the Prisoners illegally sentenced by Colonial Magistrates under the former Law. These Lists being laid before the Executive Council, it was recommended that the Prisoners should be relieved from the effect of the illegal sentence and assigned to

* *Marginal note.*—30 Oct., 1832, No. 110.

service. I need not remark upon the futility of objections raised by those, who, in denying that this evidence existed, avow at least their ignorance of its purport and their consequent inability to judge of its weight.

1834.
14 Dec.

2. Upon the second point, the efficiency of the law in its amended state, I will first state briefly the changes that were made in it and the motives which led to them. Revision being evidently necessary in order to simplify and explain the law, its whole substance naturally came under review and some alterations in it were found expedient. The leading Policy of the amended Law was the substitution of sentences to Ironed gangs, more particularly with respect to short sentences, instead of transportatn. to Penal Settlements. The power of transporting to a Penal Settlement for 3 years before exercised by any two Magistrates was confined by the Amended Law to the Justices at Quarter Sessions, who possessed this power under the New South Wales Act. At the same time, considerable powers were left with any two Justices, extending in some cases to a sentence of 2 years' labor in irons, and even to one Justice was continued a Jurisdiction over that class of Convict offences which he was enabled to punish by the former Law.

Substitution of sentences to ironed gangs vice to penal settlements.

The chief object, proposed in giving a preference to labor in irons on the roads over transportation to a penal Settlement, was the more useful employment of the Convict during his punishment. In connexion with this change of system, the management of the ironed gangs was placed upon a new footing and an effort made to conquer those difficulties in the way of the safe-custody and discipline of these scattered gangs, which had been before the occasion and excuse for wasting so much labor at a Penal Settlement. This alteration has been the frequent subject of correspondence with His Majesty's Government, and to shew that, with regard to the security of the Convicts, the system thus introduced, and which may be considered as a component part of the Policy of the New Law, has not been inefficient, notwithstanding the complaint of lax discipline by the Petitioners, I have the honor to forward herewith returns of Escapes from these gangs for the last five years.

Reorganisation of ironed gangs.

The only other change, which requires notice, was that regarding the power of Corporal punishment. The practice, which had been rejected as inhuman in the Slave-Colonies, of Separating the punishment into distinct portions, inflicted at successive times (generally in N. S. Wales on following days) when the state of the wounds caused by the former might add incalculably to the suffering produced by the latter, was no longer sanctioned

Alteration in powers to inflict corporal punishment.

1834.
14 Dec.

Alteration in
powers to
inflict corporal
punishment.

Opinions
of police
magistrates
re corporal
punishments.

Tranquillity
of convict
population.

Alleged neglect
of petitions.

by law. The power of a single Magistrate was limited to award 50 Lashes for one offence, a second being punishable by the sentence of two Magistrates with a hundred. This measure of Corporal punishment, it is to be remarked, is authorised for that minor description of misconduct for which Convicts are specially amenable to the Colonial Law, for "drunkenness, disobedience of orders, neglect of work, absconding, abusive language to a master or overseer, or other disorderly or dishonest conduct." The Petitions,* presented to the Governor and by him laid before the Legislative Council in August, 1833, having asserted the inefficiency of the Law to restrain and of the instrument used for corporal Punishment to chastise the offences of Convicts, a Circular Letter was addressed to all the Police Magistrates of the Colony, a Copy† of which I have the honor to transmit. To this reply‡ were obtained in the month of October following; and, the subject being of importance to the maintenance of order and discipline amongst the Convicts, they were published for the information of the Magistracy and of the Public generally, and a Letter was addressed to the former pointing out to them the sufficiency of the Law when its provisions were duly administered, and exhorting them to enforce its proper execution.

3. On the third point, I need hardly do more than refer you to the accompanying Extracts from monthly Reports made to me by the Police Magistrates of the several Districts under an order issued for the first time in July last. With the exception of occasional references to Evils inseparable from the state of Society here subsisting, they uniformly assert the Convict Population to be in a peaceable and orderly condition, notwithstanding its augmentation by 7,000 males during the last two years, whilst the Military Force has until the last few months continued the same.

Having thus refuted, as I hope, Sir, to your complete satisfaction, the principal allegations of the Petition, it may seem needless to trespass on your time by adverting to matters of minor consideration. I will, however, beg leave briefly to notice the following. I would observe that the complaint of neglect, shewn to the Petitions which were laid before the Council in August, 1833, has no foundation whatever. Those Petitions were first seen by me on or about the 20th August, and, on the 29th of the same month, the Colonial Secretary despatched the Circular Letter of Enquiry referred to.

The Seven Subscribers to the Commentary State that, with respect to those two Petitions, the real and essential subjects of complaint were not enquired into. I need only refer you, Sir, to

* Note 145.

† Note 146.

the Petitions, the Circular Letter of the Colonial Secretary, and the replies of the Magistrates for proof of the reverse being the fact.

1834.
14 Dec.

These Gentlemen also complain that the enquiry was directed to be made by stipendiary Magistrates. For this, there were sufficient reasons. First, in the Hunter's River District, many of the Magistrates (who appear to have been in that quarter especially tenacious of power) were amongst the Petitioners, and it would have been indiscreet to have required them to report on the sufficiency of their own complaint. Secondly, it was not thought proper to require Justices acting gratuitously to inspect Corporal punishments, which they were not in the habit of doing. Yet, without such inspection, the principal allegations in the Petition could not have been satisfactorily investigated. There was nothing, however, to prevent their attendance if they had chosen it.

Reasons for reports from police magistrates.

With respect to the additional Session, which is mentioned in the Petition in such extravagant terms, I have to observe that but nine convicts were then set down for trial, of whom four were discharged by proclamation, three were tried for forgery, and two only for serious offences. I have the authority of the Judge for stating that the sole reason for holding the Court at this time was that the Court of Quarter Sessions had left many of their cases untried, and, the weather being unusually sultry, it was resolved upon as an act of humanity; and it was intimated to the Attorney General that the Court would try those and any others, he might be able to bring forward.

Additional session of criminal court.

In like manner, the assertion in the Commentary, that the encrease of Criminals within one year has required an extra Court to dispose of them, is a gross perversion of the fact. I have the same authority for stating that the sole reason for the alteration of the practice of the Judges by occasionally sitting separately was that the time of the court and the Public, formerly occupied in Criminal Trials, might be abridged; and accordingly, whereas in 1833 the Court sat for 117 days, in 1834 it sat for 83 only.

Sittings of criminal court.

With respect to the assertion of inadequacy of punishment for absconding, represented in the last paragraph of the Commentary of the 26th August, I have only to observe that the punishment of this offence has been augmented by the Act, of which the Commentators complain. A second offence of the kind is now punished by a year's labor in Irons, a sentence certainly of considerable severity, from the endurance of which escape is now become very rare.

Punishment for absconding.

1834.
14 Dec.

The recommendation to brand the clothing of Convicts has lately been adopted (for the first time I believe in the Colony) in the case of men sentenced to work in Irons.

Comparative
returns of
convictions.

I have the honor to transmit returns* of convictions in the Supreme Court and Courts of Quarter Sessions, as far as the same could be obtained for the years 1828 to 1833 inclusive. With these are forwarded the Census Returns,* taken in 1828 and 1833, by comparing which it will be seen that the encrease of crime cannot be said to have proceeded in the same ratio as that of population.

I have, &c.,

RICHD. BOURKE.

[Enclosures.]

[Copies of these papers are not available.]

UNDER SECRETARY HAY TO GOVERNOR BOURKE.

(Despatch per ship Marquis of Huntley.)

15 Dec.

Sir,

Downing Street, 15 Decr., 1834.

Despatch
acknowledged.

I have had the honor of receiving your letter of the 29th June in reply to the enquiries, which were addressed to you as to the manner in which certain Medecines, etc., delivered over to the Colonial Hospital at New South Wales in the year 1831 by the Surgeons of Convict Ships, had been appropriated and accounted for.

Refusal to
appoint staff
surgeon.

In laying this letter before the Secretary of State, I did not fail to call his attention to that Paragraph at the close of it, in which you again advert to the expediency, as a measure of economy, of the appointment of a Staff Surgeon for the service of the Colony, to whom the charge of Medecines and Medical Stores should be assigned; but, as it appears to have been the opinion of the Lords Commissioners of the Treasury, in the month of Feby., 1833, when the necessity of this appointment as represented by you was brought under their consideration, that there were not sufficient grounds to warrant such an appointment, the Secretary of State does not think it desirable to urge the subject further upon their attention; and he trusts therefore that it will be in your power to establish some effectual check in the Colony against any improper waste or misapplication of the Medical Stores, which, on the requisition of the proper Officers, are annually supplied from this Country for the Service of the Colony under your Government.

I am, &c.,

R. W. HAY.

EARL OF ABERDEEN TO GOVERNOR BOURKE.
(A circular despatch per ship Westmoreland.)

1834.
20 Dec.

Sir, Downing Street, 20th December, 1834.

His Majesty having been pleased to honor me with the Appointment of earl of Aberdeen as secretary of state. Seals of the Colonial Department, in the room of Mr. Spring Rice, I take the earliest opportunity of acquainting you there-with.

It will give me great satisfaction to be able to fulfil His Majesty's Gracious Intentions in this Appointment; and, as it is His Majesty's Pleasure that your Dispatches should for the future be addressed to me, I shall not fail to lay them immediately before the King, and to transmit to you such Orders as His Majesty shall think fit to give thereupon. I have, &c.,

ABERDEEN.

EARL OF ABERDEEN TO GOVERNOR BOURKE.
(Despatch No. 1, per ship Marquis of Huntley; acknowledged by Sir Richard Bourke, 18th August, 1835.)

Sir, Downing Street, 20 Decr., 1834.

I have the honor to acknowledge the receipt of your Dispatches acknowledged. despatches of the dates mentioned in the margin,* reporting the great deficiency in the demand for Treasury Bills in the Colony under your Government, and the measures which you deem it advisable to adopt in consequence for keeping the Military Chest duly supplied with Specie.

Adverting to the proposal submitted in your despatch No. 94 of the 2d Decr., 1833, that Masters of Vessels, conveying Emigrants from this Country to New South Wales at the public expence, should receive such portion of the passage money as might become due in the Colony in Bills upon the Lords Commissioners of the Treasury, I have to acquaint you that a Stipulation to that effect has been made in all Contracts, which have been lately taken by the Emigration Committee for this Service; and, in all cases where Bills may be so drawn, you are authorised to transfer the amount from the Emigration Funds to the Military Chest without the deduction of the Established Premium of 1½ per Cent.; but this transfer must be made at the time the Bills are received from the Commissary, and the Bills should specify that they are drawn for this Service, and that the payment into the Military Chest has actually taken place. I have further to state that it has been deemed advisable that the Colonial Government should have the option of making the

* *Marginal note.*—No. 94, 2 Decr., 1833; No. 5, 21 Jan., 1834; No. 16, 25 Feby., 1834.

1834.
20 Dec.
Alternative
modes of
payment.

before mentioned payments either in Treasury Bills or in Specie, and that such Stipulation will be also made in all cases where it can be done without increasing the charge for Freight. Whenever such option shall be reserved in the Contract, you will of course consult with the Officer in charge of the Commissariat, by whom the Bills will be drawn, as to which of the two modes of payment it may be advisable to adopt.

Approval of
supply of funds
to military
chest.

The measures reported by you in your dispatches of the 21st of January and 25th of February last, relating to the supply of Funds for the Service of the Military Chest, are approved by the Lords Commissioners of His Majesty's Treasury, and a communication to that effect has been made by their Lordships to the Officer in charge of the Commissariat at New South Wales.

I am, &c.,
ABERDEEN.

EARL OF ABERDEEN TO GOVERNOR BOURKE.
(Despatch No. 2, per ship Marquis of Huntley.)

21 Dec.
Approval of
tickets of leave.

Sir, Downing Street, 21 Decr., 1834.

I have laid before The King your dispatch No. 33 of the 11th of April last, transmitting a Return of Convicts to whom you had granted Tickets of Leave in the year 1833; and I have the honor to acquaint you that His Majesty is graciously pleased to confirm the indulgence which you have thus granted to them.

I am, &c.,
ABERDEEN.

EARL OF ABERDEEN TO GOVERNOR BOURKE.
(Despatch No. 3, per ship Marquis of Huntley.)

Proposed flag
for Maoris and
recognition of
shipping
registers in
New Zealand.

Sir, Downing Street, 21 December, 1834.

I have had the honor to lay before The King your Despatch No. 39 of the 29th of April last, reporting your proceedings, in concurrence with your Council and in communication with the British Resident at New Zealand, for complying with the wishes of the Chiefs of those Islands to adopt a National Flag in their collective capacity, and recommending that, after the adoption and approval of this Flag, the Registers of Vessels built in that Country, granted by the chiefs and certified by the British Resident, should be considered as valid Instruments and respected as such in the Intercourse which those Vessels may hold with the British Possessions.

Proposals
approved.

I am commanded by His Majesty to signify to you His gracious approbation of the course, which you have pursued in these

respects; and I have, at the same time, to forward for your Information the Copy of a Letter from the Admiralty, in answer to one from this department, by which you will perceive that their Lordships have conveyed the necessary directions upon the subject to the Admiral Commanding in chief in the East India Station.

1834.
21 Dec.

I am, &c.,

ABERDEEN.

[Enclosure.]

MR. JOHN BARROW TO UNDER SECRETARY HAY.

Sir, Admiralty, 24 Novr., 1834.

Having laid before My Lords Commissioners of the Admiralty Sir George Grey's letter of the 17th Inst., on the subject of a Flag, which has been adopted by the Chiefs of New Zealand as a National Flag, and requesting that their Lordships would give such directions to the Officers in Command of His Majesty's Naval Forces, and take such other Steps as they shall deem necessary for giving effect to the New Zealand Registers and for acknowledging and respecting the National Flag, which has been thus adopted by the Chiefs of that Country with the sanction of the British Government; I am commanded by their Lordships to acquaint you for the information of His Grace The Duke of Wellington that a Copy of Sir George Grey's Letter and a Drawing of the Flag have been sent to the Admiral Commanding in Chief on the East Indian Station, with directions to him to give such Orders to the Captains and Commanders of His Majesty's Ships and Vessels employed under his Orders, as he may deem necessary, for giving effect to the wishes of His Majesty's Govt., which is all their Lordships presume that appertains to this Department. I am, &c.,

Instructions
for recognition
of national flag
of Maoris.

JOHN BARROW.

EARL OF ABERDEEN TO GOVERNOR BOURKE.

(Despatch marked "Separate," per ship Marquis of Huntley.)

Sir, Downing Street, 21 Decr., 1834.

The favorable report, which has been made to this Department by the Surveyor General of New South Wales as to the zeal and assiduity manifested on all occasions by Mr. Stapyhton in the discharge of his labors as an Assistant Surveyor, induces me to take this early opportunity of bringing his name under your special notice with the request that this gentleman may be advanced in his profession, should a fair opening occur, without overlooking the just claims of any of the other Assistant Surveyors, who have displayed equal merit, and who may have been employed longer than him in the Colonial Service. Should the promotion however of Mr. Stapyhton in the immediate line of his profession not be practicable within a reasonable time, I shall

Recommendation of
G. W. C.
Stapyhton for
promotion.

1834.
21 Dec.

be glad if you should be enabled to bring him forward for the purpose of discharging the duties of some other suitable Situation, which may fall vacant in the Colony, and which his talents may equally qualify him to fill with advantage to the public Service.

I am, &c.,

ABERDEEN.

EARL OF ABERDEEN TO GOVERNOR BOURKE.

(Despatch No. 4, per ship Marquis of Huntley; acknowledged by Sir Richard Bourke, 21st November, 1836.)

22 Dec.

Sir, Downing Street, 22 December, 1834.

Petition
from Revd.
J. J. Therry for
reinstatement.

I have to acknowledge the receipt of your despatch No. 40 of the 30th of April last, enclosing two printed copies of a Petition addressed to the Legislative Council by the Revd. J. J. Therry, a Roman Catholic Clergyman Resident in New South Wales, praying that he may be restored to the Situation which he formerly held upon the Colonial Establishment and from which he was removed in the year 1825 by the order of Earl Bathurst, then Secretary of State.

Approval of
withholding
petition from
council.

You exercised a sound discretion, under the circumstances of the case, in not taking the opinion of the Council upon any of the points to which Mr. Therry's Petition relates. The Hostility, which this Clergyman manifested towards the Protestant Faith, and the acrimonious character of the language used by him on various occasions towards its Ministers, were the principal grounds upon which the Salary formerly received by him from the Colonial Government was withdrawn; and, if his subsequent conduct towards the Clergy of the Established Church in New South Wales and more particularly towards the Archdeacon as the Head of that Body has been such as to remove all further objection to his re-instatement to the Office of Roman Catholic Chaplain, Mr. Therry should look to His Majesty's Government and not to the interference of the Legislative Council for such an Act of Indulgence.

R.C. chaplains
to sail for
colony.

Bishop to be
appointed.

In consequence of the further provision, which has been made by the Legislative Council for the maintenance of the Catholic Clergy, four additional Priests will shortly proceed to the Colony, one of whom will be invested with Episcopal Authority with the view of giving to the Roman Catholic Population the benefit of certain Rites of the Roman Catholic Church, which it is understood to be the peculiar province of a Vicar Apostolic or a Bishop to perform. It is not, therefore, my intention to come

to any final decision in respect to Mr. Therry's re-admission as one of the Established body of Roman Catholic Chaplains, until after the arrival in the Colony of his Ecclesiastical Superior, and until a Report shall have been received from him, not only on the state of the Roman Catholic Clergy generally and on the character of the Revd. Mr. Therry in particular, but as to the sufficiency of the authority possessed by the Bishop over him in common with the rest of the Roman Catholic Clergy, to prevent him from giving any further trouble, should he be so disposed, to the Colonial Government.

I am, &c.,
 ABERDEEN.

1834.
 22 Dec.

Decision
 deferred
 re Revd.
 J. J. Therry.

EARL OF ABERDEEN TO GOVERNOR BOURKE.
 (Despatch No. 5. per ship Marquis of Huntley.)

Sir, Downing Street, 22d December, 1834.

I have received your dispatch No. 43 of the 3d May last, reporting to me the circumstances under which you had granted leave of absence to Messrs. Abbott and Richards, two officers attached to the Department of the Surveyor General of New South Wales. After the communications which have been addressed to you by my Predecessors in Office on the state of the business of the Department to which those Gentlemen belong, it was with much regret that I learnt that you had given your consent to their absence from the Colony, excepting upon the distinct understanding that such a step on their part would be considered by the local Government as equivalent to a resignation of their Offices, unless the Home Government should feel disposed to take a more favorable view of their application.

Regret at leave
 of absence
 granted to
 J. Abbott and
 J. B. Richards.

Mr. Abbott has not yet presented himself at this office; but, Mr. Richards having reported himself, I have been induced, in consideration of his long services, to confirm the leave which you have given him. I have caused him, however, to be informed that I cannot acquiesce in his absenting himself from his duties beyond the period of two years from the date of his leaving the Colony, and that, unless he is prepared to return and be actually present at his Post before the expiration of that time, he will be considered as having forfeited his appointment; and I have to request that you will guide your conduct in respect to that Gentleman accordingly.

Confirmation
 of leave for
 J. B. Richards.

You will easily gather from the foregoing observations that it is not deemed expedient that any Officer of the Surveyor General's Department should be permitted to be absent from his duty upon any plea whatever; that Department as you are aware

Refusal of
 further leave
 for officers
 of survey
 department.

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22 Dec.

Refusal of
further leave
for officers
of survey
department.

has been augmented from time to time in consequence of the difficulty of keeping pace with the demand for the services of the Officers belonging to it; and as the delay in carrying into effect the Instructions, which have been so often sent out to the Colony for again reducing the Establishment, have been defended upon the same grounds, I am compelled to infer that the absence of any of its Members must be attended with serious inconvenience to the Public Service, and that it ought not therefore to be allowed under any circumstances.

I am, &c.,

ABERDEEN.

EARL OF ABERDEEN TO GOVERNOR BOURKE.
(Despatch No. 7, per ship Marquis of Huntley.)

23 Dec.

Protest by
J. Busby
against
reduction of
salary.

Sir,

Downing Street, 23d December, 1834.

I have the honor to acknowledge the receipt of your dispatch No. 49 of the 16th of May last, enclosing a letter addressed to the Colonial Secretary by John Busby, remonstrating against an arrangement which you had found it necessary to make affecting his Interests, on account of the unsatisfactory progress of the Tunnel for the conveyance of Water into Sydney, of which Work that Gentleman has long had the Superintendance.

Approval of
measures for
completion of
water supply
for Sydney.

Before I proceed to notice the hardship as Mr. Busby alleges of his case, I have the satisfaction of conveying to you my entire approbation of the measure you have adopted for expediting the completion of a Work, which has been so long about, and which, as it would appear from your dispatch, might have been much farther advanced, if not wholly completed, but for the dilatory manner, in which the duty imposed upon Mr. Busby as Superintendant has been discharged.

Salary of
J. Busby at
discretion of
R. Bourke.

With reference to the injustice which Mr. Busby considers himself to have experienced in consequence of the diminution of his Salary with a view of providing, without any additional expence to the Public, for the remuneration of his Assistant, I have only to state, in addition to the observations contained in Lord Goderich's dispatch of the 12th Decr., 1832, that I conceive the Government to be in no degree pledged towards that Gentleman, either as to the continuance of his Services under the Colonial Government, or to the amount of his Emoluments; and you are consequently at full liberty, so far as relates to any claim which can arise on the part of Mr. Busby founded upon the agreement made on his first appointment, to make any arrangement which you may deem best for the interests of the Public, whether it be for the entire abolition of his Office, or

a partial reduction only of it. In case of your being enabled to effect the former, I have to state, in reply to the question which you have put to me on the subject, that the temporary nature of Mr. Busby's Engagement, prior to his leaving this Country, was such that any gratuity which may be made to him would be an indulgence which he has no right to expect, and that it should therefore on no account exceed one year's Salary, to whatever rate it may in the mean time have been reduced.

1834.
23 Dec.

Gratuity for
J. Busby on
retrenchment.

I am, &c.,
ABERDEEN.

EARL OF ABERDEEN TO GOVERNOR BOURKE.
(Despatch No. 8, per ship Marquis of Huntley.)

Sir, Downing Street, 24 Decr., 1834. 24 Dec.

I have the honor to acknowledge the receipt of your dispatch No. 52 of the 18th of May last, enclosing two copies of a Schedule shewing what alterations had been made during the Quarter ending 31 Decr., 1833, in the Expenditure of the Colony under your Government defrayed by the Military Chest, one of these copies being for the use of the Commissioners for auditing the Public Accounts, the other for the information of this Department.

Despatch
acknowledged.

As it would appear that the Instructions of Viscount Goderich, in pursuance of which two copies of the before mentioned Schedule have been forwarded by you, contemplated the transmission of one of them direct to the Lords Commissioners of the Treasury, I request that you will adopt this course in future; but, of course, you will inform me that you have so transmitted it, in order that no mistake may arise on the subject, when the copy of the same document prepared for this Department shall be received by the Secretary of State.

Schedule to be
transmitted
direct to
treasury.

I am, &c.,
ABERDEEN.

EARL OF ABERDEEN TO GOVERNOR BOURKE.
(Despatch No. 9, per ship Marquis of Huntley.)

Sir, Downing Street, 24 Decr., 1834.

My Predecessor, in his dispatch No. 47 of the 17th Ult., does not appear to have adverted to the arrangement, reported in your dispatch No. 54 of the 29th of June last, for providing for the duties of Commandant of Norfolk Island further than regarded the appointment of Major Anderson to that Situation. I have now the honor of acquainting you that His Majesty's

Instructions
re office of
commandant at
Norfolk island.

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24 Dec.

Instructions
re office of
commandant at
Norfolk Island.

Government have determined, in compliance with your recommendation, that for the future the Situation of Commandant of Norfolk Island should be filled by an Officer from one of the Regiments stationed in New South Wales upon a Salary of £300 a year, instead of remaining upon the footing on which it stood whilst held by Lt. Col. Morisset; and I have been highly gratified to find that you should have been able thus early to realise the intentions of the Government at Home of reducing the Emoluments of that Appointment, whenever the Officer discharging its duties should be relieved from his Command.

Regret at leave
of absence
granted to
J. T. Morisset.

I regret that I cannot conclude the dispatch without observing upon the unusual indulgence, which you have extended to Coll. Morisset in respect to his leave of absence. Without doubting for one instant the merits of that Officer and the very difficult and arduous duty which he has had to discharge, I cannot perceive any circumstances in his case, which justified the extensive leave which you granted to him, a leave which the necessity only of a Voyage to Europe or to some other distant Quarter for the recovery of his health would have warranted, the more particularly as it appears from the letter, which Colonel Morisset addressed to this Department on the 8 Jany., 1834, that it was his intention to retire altogether from his Situation at Norfolk Island, and that circumstances connected with his domestic concerns rather than the alarming state of his own health were his chief motives for such a step. I trust you will not have authorised the payment to Colonel Morisset of any portion of the Salary of Commandant beyond the 20 Feby., 1835, the period when the original leave of absence granted to him expires, as I cannot authorise his receiving any further payment from that date, and as it must be refunded should it have been issued.

Further
employment for
J. T. Morisset.

I have only in addition to observe, in reference to Colonel Morisset's wish to obtain some other employment in the Colonial Service better suited to his present views than the one he previously filled, that it will give me much pleasure to meet his wishes in that respect, whenever circumstances may give you an opportunity of availing yourself of his Services, provided my own engagements at the time may admit of my so doing; and I must therefore be distinctly understood as holding out no pledge to Colonel Morisset on this point, altho' I shall not lose sight of your recommendation in favor of an Officer whom you consider may be again so usefully employed under the Colonial Government.

I am, &c.,

ABERDEEN.

EARL OF ABERDEEN TO GOVERNOR BOURKE.
(Despatch No. 10, per ship Marquis of Huntley.)

1834.
24 Dec.

Sir, Downing Street, 24 Decr., 1834.

I have to signify to you my approval of the arrangement notified in your dispatch No. 57 of the 2d July last, for the employment of the Revd. G. K. Rusden as Chaplain at Maitland, and of the prospective Salary of £200 per annum which you propose to assign to him from the 1st of January, 1835.

Approval of
appointment
of Revd.
G. K. Rusden.

I am, &c.,
ABERDEEN.

EARL OF ABERDEEN TO GOVERNOR BOURKE.
(Despatch No. 11, per ship Marquis of Huntley.)

Sir, Downing Street, 25 Decr., 1834.

25 Dec.

I have the honor to acknowledge the receipt of your dispatch No. 58 of the 3d July last, forwarding a Petition from the Widow of John Stephen, Esq., late Puisne Judge of the Supreme Court of New South Wales, praying for a Pension on the ground of Mr. Stephen's public Services and her own necessitous circumstances; and I have in reply to express my regret that I do not feel myself justified, consistently with the course pursued for some time past by His Majesty's Government, in recommending to His Majesty a compliance with the Prayer of this Lady's Petition. I beg further to state that, in the instances cited by Mrs. Stephen as Precedents for extending to her the indulgence which she solicits, the Pensions were granted under circumstances and upon grounds which do not apply to her case, and that the most recent of those Pensions was granted at so remote a period as the year 1815.

Refusal of
pension for
M. A. Stephen.

I am, &c.,
ABERDEEN.

EARL OF ABERDEEN TO GOVERNOR BOURKE.
(Despatch No. 12, per ship Marquis of Huntley.)

Sir, Downing Street, 25 Decemr., 1834.

I have the honor to acknowledge the receipt of your dispatch No. 59 of the 4th July last, on the subject of a Plan which has been submitted by Mr. Jas. Atkinson, a Gentleman about to Settle in New South Wales, for sending out a number of Families from the North of Ireland to form a Settlement on the Eastern Coast of New Holland to the Southward of the present limits, marked out for the location of Settlers.

Plan for
settlement of
immigrants at
Twofold bay.

I acquiesce entirely in the very just observations, which you have made in reference to Mr. Atkinson's proposal, a compliance with which, for the reasons which you have stated, would lead to

1834.
25 Dec.
Refusal to
sanction
proposal ;

much inconvenience as affecting the principle upon which Lands are now disposed of by the Crown throughout the Colony. You will therefore acquaint Mr. Atkinson that His Majesty's Government do not deem it advisable to promote the plan of Emigration, which that Gentleman and other individuals associated with him are desirous of undertaking, by giving to their Scheme the encouragement which they have solicited.

and to extend
limits for
location of
settlers.

Adverting to the general question to which you call my attention, arising out of the foregoing proposition, viz., as to the expediency of extending the location of Settlers beyond the present authorised limits* so far to the Southward as Twofold Bay, I have to acquaint you that, notwithstanding the advantages which you have pointed out in your dispatch as likely to result from it to the grazing and other Agricultural Interests of the Colony, His Majesty's Government are not prepared to authorise a measure, the consequence of which would be to spread over a still further extent of Territory a Population which it was the object of the late Land Regulations to concentrate, and to divert for a distant object, not immediately necessary to the prosperity of the Colony, a portion of its Revenues, the whole of which is barely sufficient to maintain in that state of efficiency, which it is so desirable, the various Establishments and Institutions, required by the Inhabitants of the Districts, already occupied. I am glad however of the opportunity, which you have thus afforded to me of expressing my sentiments upon this point; and you will not fail to discountenance any plans, which may hereafter be proposed to you for settling the Territory beyond the present limits to which the location of Settlers is restricted; many schemes of this nature, ostensibly for the purpose of Emigration but in reality for the benefit of their projectors, having been of late encouraged by His Majesty's Government without those expectations being realised in reference to the Interests of the Public, which could alone justify the privileges which have been granted to the Parties with whom they have originated.

I am, &c.,

ABERDEEN.

EARL OF ABERDEEN TO GOVERNOR BOURKE.

(Despatch marked "Separate," per ship Marquis of Huntley.)

Sir,

Downing Street, 26 Dec., 1834.

I have received your dispatch marked separate of the 28th June last, recommending Mr. Bryan Brennan, under the circumstances therein stated, for the appointment of Crown Solicitor; and I beg to acquaint you in answer that I am prevented

26 Dec.
Despatch
acknowledged.

from meeting the wishes of Mr. Brennan in this particular by an arrangement adopted previously to the receipt of your present communication and notified to you in my Predecessor's dispatch, No. 46 of the 16th Ulto., for filling up that Vacancy.

1834.
26 Dec.

Inability
to appoint
B. Brennan.

I am, &c.,

ABERDEEN.

EARL OF ABERDEEN TO GOVERNOR BOURKE.

(Despatch No. 14, per ship Marquis of Huntley.)

Sir, Downing Street, 27th Decr., 1834.

27 Dec.

I have received your dispatch No. 65 of the 12th of July last, on the subject of an application from Mr. Robert Campbell, Jr., a Merchant established in Sydney, for the grant of a portion of Land consisting of 1,172 Acres, for which he applied to the local Government in the year 1827, but which, altho' permitted to occupy by General Darling upon certain conditions, he appears to have taken no steps to obtain until the present time.

Refusal to
grant land to
R. Campbell, jr.

I agree with you in the opinion, which you have expressed, that, if an opportunity were now to be afforded that all persons, who consider themselves aggrieved by former Governors in respect to any claims to Land which they may have advanced, to have their cases reconsidered, a most inconvenient opening will be afforded for the revival of innumerable claims, the fair adjudication of which at this distance of time would be impossible; and I have under these circumstances to desire that you will express to Mr. Campbell my regret that I am prevented from complying with his request.

I am, &c.,

ABERDEEN.

EARL OF ABERDEEN TO GOVERNOR BOURKE.

(Despatch No. 15, per ship Marquis of Huntley.)

Sir, Downing Street, 27 Decemr., 1834.

I have the honor to acknowledge the receipt of your dispatch of the 13th July last, No. 66, upon the subject of an application which had been made to you on the part of Mr. Ranulph Dacre for a Grant of Land; and I beg to acquaint you in reply that I do not consider that Gentleman's case to be one of those contemplated by Lord Goderich as entitling the party to an exception from the Regulations promulgated in the Colony in 1831, and that you very properly declined to accede to Mr. Dacre's application.

Refusal to grant
R. Dacre
exemption from
regulations.

I am, &c.,

ABERDEEN.

GOVERNOR BOURKE TO RIGHT HON. T. SPRING RICE.

1834.
28 Dec.

(Despatch No. 129, per ship William Metcalf; acknowledged by lord Glenelg, 14th October, 1835.)

Sir, Government House, 28th December, 1834.

Transmission of
acts of council.

I have the honor to transmit for His Majesty's Gracious allowance Twenty one acts, which have passed the Legislative Council of this Colony during the present year.

Act re jury lists.

4 Wm. IV, No. 13, An act for giving time to prepare and settle the Jury Lists for Sydney for the yr. 1834. This was passed to remedy an inadvertence on the part of the Magistrates.

Extension of
bushranging
act.

Idem No. 14. An act further to continue an Act of the Govr. with the advice of the Legislative Council, entitled "An act to suppress Robbery and Housebreakers." This was a temporary measure for prolonging the former Act, pending an enquiry into the necessity for its renewal for a farther term of years. Copies of the Documents laid before the Council on this subject and of the amended act ultimately passed (5 Wm. IV, No. 9) were transmitted by my Despatch of 5 Septr. last, No. 89, together with the representation of Mr. Justice Burton upon the repugnancy of the Act to the Law of England.

Act re
slaughtering
of cattle.

Idem No. 15. An act further to continue an act of the Governor, with the advice of the Legislative Council, intituled "an act for regulating the Slaughtering of Cattle and for preventing the improper driving of the same through the Streets of Sydney, and for other purposes." This was also a temporary measure for prolonging the former act until the amended Law could be prepared which was afterwards passed (5 Wm. IV, No. 1).

Amendment
of quarter
sessions act.

Idem No. 16. "An act to amend an act intituled 'An act for instituting Courts of General and Quarter Sessions in New South Wales.'" The Act amended by this act provided for the nomination of a Chairman of Quarter Sessions at certain places therein named. The present Act provides for a similar appointment at Bathurst and other places, as circumstances may require, and for the nomination of a substitute or successor in case of the incapacity or death of any of these Functionaries.

Legal
documents.

Idem No. 17 is an act for adopting and applying a certain act of Parliament "for rendering a written Memorandum necessary to the validity of certain promises and engagements." This was passed at the instance of the Judges.

Act re
slaughtering
of cattle.

5 William IV, No. 1. An Act for regulating the Slaughtering of Cattle. The amended act on this subject before alluded to. Some of its provisions are directed against nuisances in Towns, but its chief object is to diminish the chances of impunity to Cattle-Stealers by rendering it penal to slaughter without

License, except for family use, or to destroy the brands, which are to be examined and registered by Inspectors.

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28 Dec.

Idem No. 2. An act to remove doubts as to the validity of certain marriages solemnized within the Colony of New South Wales, and to regulate the registration of certain Marriages, Baptisms and Burials.

Act re validity of marriages and registration.

This act is founded on the Model of one passed by the English Legislature with reference to British Subjects in India, 58 Geo. III, C. 84. It declares valid all marriages, which have been solemnized according to the forms of the Roman Catholic or Scotch Presbyterian Churches, and provides for their future celebration among persons of these communions, and for the registration of Marriages, Baptisms and Burials in a manner free from the objection to that which has been heretofore directed.

Idem No. 3. "An Act for apprenticing the children of the male and female orphan Schools and other poor children in the Colony of New South Wales."

Act for apprenticing orphan children.

By the dissolution of the Church and School Corporation, the children of the orphan Schools were left without legal guardians authorised to bind them apprentice. The present act empowers the Governor to appoint two or more persons for this purpose. Its provisions are likewise extended to such other children as may be sent to this Colony by His Majesty's Government or by Parishes or charitable Institutions.

Idem No. 4. An Act to revive and continue for a limited time an act of the Governor in Council passed in the 2d year of the Reign of His Present Majesty, intituled "An act for the relief of Debtors in Execution for debts, which they are unable to pay." This act is continued for two years.

Extension of act for relief of debtors.

The next act, No. 5, was brought under notice by my despatch of 1st September last, No. 75.

Idem No. 6. "An Act to amend an Act entitled 'An Act for appointing and empowering Commissioners to hear and determine upon claims to grants of land under the great Seal of the Colony of New South Wales.'"

Act re fees in court of claims.

The only object of passing this act was to reduce the fees of the Commissioners. The cases referred to them were found on the measure coming into operation to be more numerous and to require on the average less labor than was at first expected.

Idem No. 7. "An Act for licensing and regulating Hawkers and Pedlars."

Act for licensing hawkers.

This measure arose out of a Petition to the Council from certain merchants and others praying that Hawking might be prohibited. As it did not, however, appear desirable to abolish a

1834.
28 Dec.

mode of dealing, so convenient to persons living in remote Districts, the present Act has been passed to restrain its abuses, facilitating the discovery of stolen property of which Hawkers may be the Depositories, and of Spirituous Liquors, the vending of which from place to place would introduce great abuses among Convict servants on farms.

Act for
adoption of
English
statutes.

Idem No. 8. An Act for adopting and applying certain acts of Parliament passed in the 11th yr. of the reign of His late Majesty and 1st yr. of the reign of His present Majesty, and in the 1st and 2nd yrs. of the reign of His present Majesty respectively, in the adminn. of Justice in N. S. Wales, in like manner as other Laws of England are applied therein.

These Statutes, which relate to the forms of Judicial process and of legal Documents, are adopted at the instance of the Judges.

Nos. 9 and 10 have been already brought under notice by my Despatch of 15th September last, No. 89.

Act re clergy
and school
estates.

Idem No. 11. "An act for regulating the affairs of the late Corporation of the Trustees of the Clergy and School Lands, and to secure to the Purchasers their Titles to certain Lands purchased by them from the sd. Corporation."

By the dissolution of the Church and School Corporation, this Act became necessary for the proper management of the Estates thereby resumed by the Crown, and for the adjustment of the liabilities and claims connected therewith. The act enables the Governor to appoint an Agent or Bailiff, who may sue and be sued in reference to the property, and provides for the confirmation of incomplete Titles to Land parted with by the Corporation.

Amendment of
crown lands act.

Idem No. 12. An Act to amend an act entitled "An act for protecting the Crown Lands," etc. This enables one commissioner to act in cases where two were made necessary by the act amended. It was found that on some occasions the employment of two would be an useless expence.

Act for
protection of
wharfs, etc.

Id. No. 13. An act for protecting public Wharfs, Piers, Quays and Jetties. This may be considered as an addition to the Harbor and Police Acts. It enables two Justices with the Governor's approval to make regulations for the order and cleanliness of the Structures mentioned, enforcing them by penalties not exceeding 20s.

No. 14 has been already brought under notice by my Despatch of the 3 Sept. last, No. 77.

Customs act.

No. 15. An Act to provide for the general regulation of the Customs of new South Wales.

The late statute, 3 and 4 Wm. IV, chap. 56, by repealing the law on which the local customs act was founded, rendered it necessary to pass a fresh act for the Colony. The opinions of the Collector and Comptroller have been chiefly consulted in its compilation.

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28 Dec.

No. 16. An act to repeal in part and to amend and extend the provisions of an act entitled "An Act to Establish a Savings Bank," etc. This act introduces a few changes in the details of business in the Bank, which experience had suggested to its managers. Provisions are also added for extending the benefit of the institution to other parts of the Colony, as circumstances may require, by receiving Deposits through the intervention of District Trustees.

Amendment
of savings
bank act ;

Id. No. 17. "An act to amend an act intituled 'An act for instituting and regulating Courts of general and Quarter Sessions.'" This was passed, at the instance of the Crown Lawyers, to supply a slight verbal omission in the act amended.

and of quarter
sessions act.

Id. No. 18. "An act for appropriating the sum of £50,000," etc. The occasion of this loan and the importance of an early remittance for its repayment have been represented to H.M. Government by my Despatch of the 15th October last, No. 105.

Act re loan to
commissariat.

Id. No. 19. "An act to make perpetual an act intituled 'An act for preventing the extension of the infectious disease called the Scab,'" etc.

Perpetual
continuance of
act re scab in
sheep.

The act having been found useful in checking the progress of a disease so injurious to the best interests of the Colony, it has been thought right to continue it.

Id. No. 20. "An act for better regulating the alignment of streets," etc. A large portion of the land of Sydney having been alienated by the Crown before any plan of the future Town had been distinctly laid down, those reservations were not made which are required for securing to the public streets a desirable uniformity. On this account many inconveniences were constantly arising to the public by projections and obstructions, which there was no law to prevent, and a system was gaining ground of speculating on the power of inconveniencing the public in these ways, and forcing the Government to purchase at a high price land of little real value to the owner. The present act has been passed to check this evil, declaring land now forming parts of Streets to be dedicated for ever to the Public, and laying down certain rules to which all persons are in future to conform in the erection of Houses.

Act for
regulating
alignment
of streets.

I have, &c.,

RICHD. BOURKE.

1834.
29 Dec.

EARL OF ABERDEEN TO GOVERNOR BOURKE.
(Despatch No. 17, per ship Marquis of Huntley.)

Sir, Downing Street, 29 Decemr., 1834.

Despatch
acknowledged.

I have the honor to acknowledge the receipt of your despatch No. 72 of the 29th July, enclosing the copy of a letter from Lt. Colonel Snodgrass, applying for a Grant of Land, in consideration of certain Colonial Services performed by him, for which he has received no separate remuneration.

Refusal of
land grant for
K. Snodgrass.

Colonel Snodgrass's present application appears to be the renewal of one, which has been before under the consideration of my Predecessors in Office, who, with every inclination to meet the wishes of that Officer, deemed it necessary to withhold from him an indulgence which could only be granted in direct defiance of an established Regulation. Under these circumstances, I trust that Colonel Snodgrass will not consider me the less disposed to estimate the Services which he has rendered to the Colonial Government, and to which you have borne so flattering a testimony, from my declining to view his case, in reference to his present claim, in a more favorable light than that in which it has already been regarded; the more especially as I am of opinion that serious objections exist to the principle of remunerating public Services by the granting of Indulgences, which other Residents in the Colony are debarred under existing Regulations from receiving. I observe, from the letter addressed to you by Colonel Snodgrass bearing date the 2d July, 1834, that a period of nearly two years has elapsed between the date at which the former decision on his case was communicated to him, and that at which the renewal of his application has taken place, a circumstance which would have augmented the difficulty of my acceding to it, had the objections in other respects been less to my authorising an exception from the Regulations in his favor.

I am, &c.,

ABERDEEN.

EARL OF ABERDEEN TO GOVERNOR BOURKE.
(Despatch No. 18, per ship Marquis of Huntley.)

30 Dec.

Sir, Downing Street, 30 December, 1834.

Irregularity in
transmission
of duplicate
despatches.

I regret to be under the necessity of calling your attention to the irregular manner in which some of your Duplicate Despatches have been prepared for transmission to this Department, the dates* of them in some cases varying from those of the originals, and in other instances the Enclosures being omitted; I have in consequence to request that you will point out to the officer, to whose Department this duty more particularly belongs, the necessity of more attention being paid to these matters in

* Note 148.

future; and I take this opportunity of referring you to the Circular despatches, which were addressed to your Predecessors in the Government of New South Wales in the month of Sept., 1833, and on the 6 July, 1825, in order that the directions, therein contained, may be adhered to with the utmost exactness.

1834.
30 Dec.

I am, &c.,
ABERDEEN.

EARL OF ABERDEEN TO GOVERNOR BOURKE.
(A circular despatch per ship Westmoreland.)

Sir, Downing Street, 31st December, 1834.

31 Dec.

The Lords Commissioners of the Treasury, having had under their consideration the subject of Bills drawn upon them by Governors of His Majesty's Colonies, have notified to me their wish that the following system in regard to such Bills should be adopted; and I have accordingly to desire that, upon all occasions when Bills of Exchange may be drawn upon their Lordships to cover charges incurred for Local Establishments, or captured and Liberated Africans, or any other Casual disbursements, their Lordships may be regularly advised of such Bills; that the nature of the service on account of which the Bills shall be drawn, and the date and description of the document conveying the Authority for the Expenditure may be specified both in the letter of Advice and upon the face of the Bill; that, in case the Bill be drawn for Salary or any periodical payment, the period in respect of which the Bill be given should be likewise stated on the Bill and in the letter of Advice, and the latter, when practicable, be forwarded previously to the Bill being drawn. In other cases, the best means in your power should be taken to ensure the receipt in England of the Letter of Advice previously to the Bill being presented for acceptance, and no Bills should be drawn upon their Lordships at less than 30 days' sight.

INSTRUCTIONS re
drawing of bills
on treasury.

I have, &c.,
ABERDEEN.

THE SECRETARY OF STATE TO SIR RICHARD BOURKE.

THE following despatches.* written in the year 1835, have been omitted:—

1835.

dated	Despatch numbered	Transmitting	Despatches omitted.
26th January	20	refusal of conditional pardon for William Watt.	
8th March	29	approval of ten absolute and eighty-eight conditional pardons.	
16th May	5	details re life sentence on Sarah Lampard.	
22nd May	6	refusal of mitigation of sentence on Daniel Cohen.	
1st June	7	authority for ticket of leave for Jasper Miles.	
24th June	11	approval of two absolute and fifty-nine conditional pardons.	
5th July	18	approval of one absolute and seventy-two conditional pardons.	

* Note 1.

THE following despatches* have been omitted—*continued*.

Despatches omitted.	Despatch		Transmitting
	dated	numbered	
	28th July	26	approval of indulgences recommended in despatches from Sir Richard Bourke numbered 9, 13 and 18.
	10th August	37	authority for free pardons for eighteen convicts transported in 1830-1 for machine-breaking and acts of rioting.
	11th August	38	free pardon for convicts transported for high treason at Stirling in 1820.
	— August	39	authority for indulgence for James Loveless, convict.
	6th October	54	intention to grant pardon to James Loveless, convict.
	31st October	66	free pardons for Stewart Mead and Patrick Kearney.
	12th November	72	conditional pardons for James Loveless, John and Thomas Stanfield, James Hammet and James Brine.
	15th November	Circ.	statute 5 and 6 Geo. IV, c. xxxviii.
	17th November	77	conditional pardon for John Dickinson.
	18th November	78	authority for indulgence for Edmond Power, convict.

UNDER SECRETARY OF STATE TO SIR RICHARD BOURKE.

THE following despatches,* written in the year 1835, have been omitted:—

Date.	Subject.
27th January	requesting report <i>re</i> Edward Bayley, convict.
30th January	„ „ <i>re</i> Bryan Kine, convict.
1st February	recommending George Lilley, convict.
24th March	list of forty-four male convicts <i>per</i> ship <i>Marquis of Huntley</i> for special treatment.
14th April	general acknowledgment of despatches.
6th June	list of thirteen male convicts <i>per</i> ship <i>England</i> for special treatment.
7th July	list of five male convicts <i>per</i> ship <i>Mary Ann</i> for special treatment.
17th July	requesting report <i>re</i> Matthew Bourne, convict.
27th July	list of eight male convicts <i>per</i> ship <i>Royal Sovereign</i> for special treatment.
10th September	requesting report <i>re</i> Augustin Lowry, convict.
7th October	list of eight male convicts <i>per</i> ship <i>Susan</i> for special treatment.
26th October	list of nine male convicts <i>per</i> ship <i>Recovery</i> for special treatment.

ASSIGNMENTS OF CONVICTS.

Assignments of convicts.

DURING the year 1835, letters, which enclosed the assignments of convicts (not available) *per* the ships named, were written by the under secretary of state to Sir Richard Bourke, with dates as under:—

Date of Letter.	Ship's Name.	No. of Convicts.
24th March	Marquis of Huntley	320 Male.
14th April	Mary	180 Female.
6th June	England	230 Male.
7th July	Mary Ann	306 „
27th July	Royal Sovereign	170 „
24th September	Henry Wellesley	118 Female.
7th October	Susan	300 Male.
26th October	Recovery	280 „

* Note 1.

SIR RICHARD BOURKE TO SECRETARY OF STATE.

1835.

THE following despatches,* written in the year 1835, have been omitted:—

Despatches omitted.

dated	Despatch numbered	Transmitting
27th January	7	half-yearly report from superintendent of botanic garden.
28th January	8	expenditure from military chest for quarter ending 30th September, 1834.
29th January	9	recommendation for reduction of sentence on William Drummatt from life to fourteen years.
31st January	11	conditional pardon for Patrick Tighe.
4th February	15	return of intestate estates.
4th February	16	schedules of appointments, alterations in expenditure, etc. for 1834.
7th February	18	conditional pardons for George Biddles and James Archer and ticket of leave for William Thomas.
8th February	20	absolute pardon for Charles Wilkins.
10th February	24	return of deaths of convicts for 1834.
11th February	25	expenditure from military chest for quarter ending 31st December, 1834.
21st February	34	printed copy of the acts of council passed in the year 1834.
15th March	36	return of tickets of leave granted in the year 1834.
20th March	37	return of prisoners tried before supreme court in the year 1834.
28th April	42	quarterly return of intestate estates.
4th June	51	quarterly returns from colonial treasurer.
5th June	52	quarterly schedule <i>re</i> military chest.
22nd June	54	return of assignments of convicts in the year 1834.
24th June	56	applications by convicts for passages for wives and families.
15th July	59	monthly returns <i>re</i> advances to female immigrants.
16th July	60	return of alterations in expenditure from colonial treasury for second quarter of 1835.
8th August	75	returns of advances to male emigrants and of bounties to female emigrants.
9th August	76	quarterly return of intestate estates.
10th August	77	"blue book" for year 1834.
13th August	80	recommendation for commutation of death sentence on Samuel Collins.
5th September	83	quarterly schedule <i>re</i> military chest.
6th September	89	quarterly accounts from colonial treasurer.
7th September	90	seventy-four conditional pardons for approval.
20th October	104	quarterly accounts from colonial treasurer.
21st October	105	quarterly schedule of alterations in expenditure from colonial treasury.
1st November	106	quarterly return of intestate estates.
23rd November	111	return of applications for convict servants for the year 1833.
24th November	112	eighty-seven conditional pardons for approval.
28th November	115	recommendation for commutation of death sentence on John Hagan.
3rd December	118	one absolute and seven conditional pardons for approval.
25th December	125	comparative financial statements for years 1833 and 1834.

SIR RICHARD BOURKE TO THE UNDER SECRETARY OF STATE.

THE following despatches,* written in the year 1835, have been omitted:—

Date.	Transmitting
30th March	schedule of despatches transmitted during the year 1834.
8th May	report on misconduct of Fisher Betts, convict.
23rd June	report <i>re</i> Thomas Curry.
25th June	„ <i>re</i> William Adams.

GOVERNOR BOURKE TO RIGHT HON. T. SPRING RICE.

(Despatch No. 1, per ship William Metcalf.)

Sir,

Government House, 5 January, 1835.

Resignation of
A. Hallen and
appointment of
M. W. Lewis
as architect.

I have the honor to inform you that, Mr. Ambrose Hallen having resigned the appointment of Colonial Architect, I have named Mr. M. W. Lewis, who has been for some time employed as an assistant in the Surveyor General's Department in this Colony, to succeed to the vacant office. As I have reason to believe that Mr. Lewis, though not a regularly bred architect, is nevertheless competent to discharge the duties required of him, having had considerable practice as a Builder in England, I venture to solicit your confirmation of the appointment.

Necessity
for office of
architect.

In obedience to the instructions contained in your Circular Letter of the 4th July last, I proceed to state my opinion of the necessity of continuing this office. The grounds, upon which I recommend it, are these. There are at present subsisting in the Colony several public Buildings of some importance and expence, which require frequent inspection and repair; and, in so new and thriving a country, the necessity for additional structures of enlarged dimensions and more imposing appearance is constantly presenting itself. For the preparation of plans and Estimates and the due Superintendence of such works, it is more convenient, safe, and economical to employ an architect in the constant pay of Government than to take chance for occasional assistance from such professional persons as can be procured here. In the constitution of this office, I have to propose the change adverted to in my despatch of the 10th October last, No. 104, namely its entire separation from the Surveyor General's Department. The experience of two years has convinced me that to leave the Colonial Architect's office under the charge of the Surveyor General of this Colony will occasion for the future, as it has for the past, loss of time and efficiency without any saving of expence or other compensating advantage whatsoever.

Proposed
separation
of office from
surveyor-
general's
department.

Salary and
allowances
of architect.

With respect to the Salary attached to this office, I should say that it is much below what its duties and responsibility seem to require. I have no doubt that it would be found impossible to induce an architect of even moderate experience and reputation to come out from England and devote the whole of his time to his office here on a Salary of £400 a year, and 2s. 6d. a day forage allowance, with travelling charges and personal expences allowed at 15s. a day when sent to any distance from Sydney. The foregoing are the Salary and allowances which Mr. Hallen received, and upon which Mr. Lewis has now undertaken the employment.

I have, &c.,

RICHD. BOURKE.

GOVERNOR BOURKE TO RIGHT HON. T. SPRING RICE.
(Despatch No. 2, per ship William Metcalf.)

1835.
6 Jan.

Sir, Government House, 6 Janry., 1835.

With reference to my Despatch of the 10th October last, No. 104, in which I represented the expediency of nominating assistant Survr. Thompson to the situation of principal Draftsman in the Surveyor-General's office and of encreasing his Salary to £400 a year, I have the honor to inform you that I have made this appointment from the 1st instant, the Surveyor General having acquainted me that he would lose the valuable services of Mr. Thompson, if the addition of £100 a year was not thus made to his Salary. I have therefore to request your sanction to this arrangement, which seemed absolutely necessary to maintain the efficiency and usefulness of this important office.

Salary for
J. Thompson as
chief draftsman.

Referring to the same Despatch, I have further to state that I have named Mr. Russell to supply Mr. Thompson's vacancy in the Survey Department, and have promoted the two senior Draftsmen to the rank of Assistant Surveyors. These movements will occasion an augmented Expense of £200 a year, which is provided for in the appropriation act for 1835. It is not intended to supply the vacancies, which this promotion has occasioned in the numbers of Draftsmen.

Appointment
of assistant
surveyors.

In furtherance of the suggestion for the improvement of the Road Branch of the Survr. General's Department submitted in the Despatch before mentioned, I shall require the Deputy Surveyor General to make occasional inspections along the several lines of road, which in this Colony are of considerable length (three of them* exceeding 100 miles each) and at great distances from each other. The Deputy-Surveyor-General is, however, the only principal officer in the Department, who has no allowance of forage. I therefore propose, with your sanction, to allow him for one horse at 2s. 6d. per day. As I intend to keep him a good deal on the alert, he will be fairly entitled to this allowance.

Roads to be
inspected by
S. A. Perry.

Forage
allowance for
S. A. Perry.

I have, &c.,

RICHD. BOURKE.

EARL OF ABERDEEN TO GOVERNOR BOURKE.

(Despatch marked "Circular," per ship Westmoreland.)

Sir, Downing Street, 8th January, 1835.

8 Jan.

I have the honor to desire that for the future you will address to the Secretary at War Reports of all Appointments and promotions, at the time when they occur, of Half pay Officers to Civil Situations in the Colony under your Command.

Reports to be
transmitted to
secretary at
war.

I have, &c.,

ABERDEEN.

* Note 149.

EARL OF ABERDEEN TO GOVERNOR BOURKE.

(Despatch marked "Circular," per ship Westmoreland.)

Sir,

Downing Street, 10 January, 1835.

Statements
required *re*
claims to
retiring
allowances.

I have to request that, in every case in which you may have occasion to bring under the consideration of His Majesty's Government the claim of any Officer to a retiring allowance on quitting the Service of your Government, you will, at the same time, furnish a detailed statement, shewing the age of such Officer, the nature and length of his Services, and the emoluments of his Office, as without full information upon these points, it will be impossible for His Majesty's Government to estimate the claim of any officer to a Pension or other retiring allowance.

I am, &c.,

ABERDEEN.

GOVERNOR BOURKE TO RIGHT HON. T. SPRING RICE.

(Despatch No. 3. per ship William Metcalf; acknowledged by lord Glenelg, 29th July, 1835.)

Sir,

Government House, 12 Janry., 1835.

12 Jan.

Instructions
re government
deposits in
banks.

I beg leave to bring under your notice the Despatch of Earl Bathurst of 1st December, 1826, No. 95, in which the Governor of New South Wales is directed to keep cash to the amount of £10,000 in the Sydney Banks. There were at that time two Banks in credit, in each of which the sum of £5,000 has been since kept with but little fluctuation in amount. Towards the close of last year, a third Banking Establishment* of equal solidity and credit with either of the others has been formed in Sydney. Application was made to me by the Directors to place some part of the Treasury Balance in their Bank. There being at the time a considerable quantity of specie in the vault, I thought it desirable to accede to their request and have directed the Treasurer to lodge and keep up £5,000 in the Commercial Bank under the same regulations as the Govt. Deposits in the other two. A fourth Bank,* with a Charter, and importing specie to the amount as is stated of £50,000, is shortly to open; and, as I anticipate a similar application to that lately made by the Commercial Bank, I think it right to apprise you that I propose to order a Deposit of £5,000 to be kept in that Bank also.

Deposit lodged
in Commercial
bank.

Proposed
deposit in bank
of Australasia.

These arrangements I trust will meet your approbation, having been adopted in some measure as partaking of the Spirit of Earl Bathurst's instructions on a former occasion, but chiefly as

* Note 150.

the means of putting some part of the large quantity of specie, which has found its way into the Colonial Treasury as the surplus of Revenue over expenditure. Upon the disposal of this surplus, I shall have the honor to address you hereafter.

1835.
12 Jan.

I have, &c.,

RICHD. BOURKE.

GOVERNOR BOURKE TO RIGHT HON. T. SPRING RICE.

(Despatch No. 4, per ship William Metcalf: acknowledged by lord Glenelg, 3rd August, 1835.)

Sir,

Government House, 13 Janry., 1835.

13 Jan.

By the statement which I have now the honor to transmit, you will perceive that, at the close of last year, there remained in the Treasury of this Colony the sum of £110,188 19s. 9d. in specie, over and above Treasury Bills for £25,000 retained as a Security for the repayment of a like sum advanced to the Military Chest. Of this sum, which is the surplus of Revenue over expenditure, £42,653 6s. 8½d., being derived from payments on account of Crown Lands, may be considered as exclusively appropriated to the encouragement of Emigration from the United Kingdom to the Colony; there remains therefore, of the Cash Balance, the sum of £67,535 13s. 0¾d. only as applicable to the general purposes of the Colony, but to which is to be added the value of the Treasury Bills, making in the whole the sum of £92,535 13s. 0¾d. for Colonial uses. Against this surplus, there is no charge to be made, nor is it likely there will be any deficiency in the Revenue of the present year, but on the contrary it will probably exceed the estimated expenditure in a larger amount than was supposed on passing the appropriation act for 1835. It may therefore be stated that there is now in the Treasury the sum of £92,535 13s. 0¾d. to be expended in such public works as have not yet been estimated for, and as the growing population and increasing wants of the Colony demand.

Specie and treasury bills in colonial treasury.

Credit balance of land revenues.

Balance available for colonial purposes.

Expected surplus for 1835.

The accumulation of so much specie in the Treasury, which is thus, for a time at least, withdrawn from circulation, is considered as an evil by the Colonists. I am not, however, aware that it has, as yet, produced any sinister effect, though I am ready to admit that, if circumstances had favored its dispersion, it would not have been proper to have permitted the money to have remained unemployed, whilst so many works of general utility require to be undertaken. The same causes however, which have filled the public coffers, have contributed to the

Objections to accumulation of specie.

1835.
13 Jan.

Effect of
increase in
private wealth.

wealth of Individuals, and accordingly there has been within the last two years a very considerable expenditure of private capital in Building. The demand for artificers of the better order has in consequence been extensive, and it would not have been prudent in the Government, whilst the supply was unavoidably circumscribed, to have added considerably to the cost of mechanical skill and labor by entering into competition with Individuals. The number of competent artificers, however, being now in some degree increased, it seems no longer advisable to allow the accumulation of specie in the Treasury to continue. I intend, therefore, to propose to the Legislative Council at its next Session in May to appropriate part of this surplus revenue to the erection of those public Buildings which are most wanted.

Proposed
appropriations
for public
buildings.

National
schools.

Those, to which I would most willingly devote a considerable sum, are the national Schools described in my Despatch of 30th September, 1833, No. 76; but, before I can apply to the Council for funds, I must be assured that H.M. Govt. sanctions their Establishment. Upon this subject, I await the honor of your Commands with some anxiety.

Gaols proposed
at Sydney,
Parramatta
and Bathurst.

The Buildings next in order of demand are public prisons. That of Sydney has been some time represented as in a ruinous state and totally inadequate to the wants of the Town and District. With my Despatch of 5 Febr., 1833, No. 19, I have transmitted a particular description of it and a proposal for erecting another. Having received no reply to that communication, I will, in conformity to the suggestion therein contained, propose to the Council to undertake the Building of this Gaol at the expence of the Colony. As it is intended to be of a permanent character and will be available probably long after the mother country shall have ceased to send out Convicts, it is not inequitable to call on the Colonists to pay the expense. It is proposed to erect gaols of a similar description at Parramatta and Bathurst and to provide for the expense in the same manner.

Criminal court-
house proposed
at Sydney.

In conjunction with the Prisons, it will be necessary to erect Court Houses. The Supreme Court occupies but an indifferent Building in Sydney with two Halls. One will make a good Civil Court for Law and equity proceedings, and the other is required for the Court of Requests and other occasional sittings. This Building being at least one Mile distant* from the proposed site of the Prison, it is intended to build a small Criminal Court for the Judges and Quarter Sessions. At Parramatta, there is a small hired Building used as a Court House, and at Bathurst the

Court-houses
at Parramatta
and Bathurst.

* Note 151.

Police Office is altogether insufficient for a District rapidly increasing in Population and proposed as a place where assizes are to be held.

1835.
13 Jan.

A lunatic asylum is an Establishment that can no longer be dispensed with. In this Colony, the use of ardent spirits induces the disease called delirium tremens, which frequently terminates in confirmed lunacy. The present asylum* is a wretched hired Building without outlet of any kind. The rent is now paid out of the Military Chest; but I would propose that the permanent Building should be at the expense of the Colony.

Necessity for lunatic asylum.

The Benevolent asylum is another charitable Institution, which has hitherto been maintained chiefly at the cost of the British Treasury. It is managed by a Committee of Colonists; and, as they are applying for a Bill to put the Establishment upon the footing of the Country Hospitals in Ireland, I mean to propose that the sums given annually in aid of private subscriptions and donations shall be taken from the Colonial Funds. The Building requires an addition.

Benevolent asylum.

A Custom House and a Government House in Sydney are still wanting; and the improvement of Sydney Cove by the erection of a Circular Wharf at the verge of deep water is a great desideratum, to which I have on a former occasion† had to request your attention in applying for the services a qualified Civil Engineer. The improvement of some of the Harbors to the South of Sydney and of that of Newcastle is also required.

Necessity for custom and government houses and shipping accommodation.

Besides these sources of necessary expenditure, the formation of new and repair of old roads together with the construction of Bridges, some of which are of stone, will form a constant and considerable item of the annual charge. It is not possible by tolls to meet the expences of roads in any new country, and, in this, the fertile districts being separated from Sydney by long tracts of mountainous and sterile country, the roads are necessarily of great length and expensive in forming.

Formation and repair of roads.

I have thus, Sir, endeavored to lay before you, as briefly as possible, a statement of the public works and buildings required in the Colony, and of the resources available for their execution. I would propose no longer to delay undertaking the most necessary, both with a view to obtain the sooner establishments, which are indispensable, and to remove the general complaint of contracting the Circulatn. of specie by an accumulation in the Treasury. If I shall not be honored by any specific instructions in reply to my former despatches before the meeting of Council in May next, I trust H.M. Government will approve of my obtaining funds by a supplementary estimate for 1835, to enable me to

Votes proposed in supplementary estimates.

* Note 152.

† Note 153.

1835.
13 Jan.
Necessity
for new gaol.

commence the Sydney Gaol and Court House and Lunatic Asylum with the least possible delay. The gaol in its present crowded state, without classification or labor, is a moral pestilence, and from its confined and low situation in the most populous part of the Town, appears likely at any moment to generate a physical one. The sale of the old site* when the new gaol shall be completed will bring in a large sum. The other Buildings may be undertaken as opportunities offer for obtaining contracts.

Difficulty in
obtaining plans
and
specifications.

In my Despatch before referred to, I stated the difficulty of obtaining approved plans and specifications for such Buildings as I have now described. There are now greater means of getting over this difficulty than when I first addressed the Secretary of State on the subject.

I have, &c.,

RICHD. BOURKE.

GOVERNOR BOURKE TO RIGHT HON. T. SPRING RICE.

(Despatch No. 5, per ship William Metcalf; acknowledged by lord Glenelg, 4th August, 1835.)

14 Jan.

Sir,

Government House, 14 Janury., 1835.

Opinion of
executive
council *re* claim
of T. Nowlan
to land grant.

I have the honor to forward a minute of the Executive Council on the claim to a grant of 2,000 acres of land, preferred by Mr. Timothy Nowlan on the faith of the interpretation he places on a transaction between himself and this Government, when administered by Sir Thomas Brisbane. One member of the Council, you will perceive, regards the claim as established. The majority do not consider any promise shewn on the part of my predecessor so as to justify my issuing a grant, but recommend the case to your favorable consideration.

Statement *re*
immigration
of T. Nowlan.

In order to put you in possession of all the grounds on which Mr. Nowlan rests his application, it will be necessary briefly to advert to the circumstances under which he emigrated. He applied in the year 1822 to Earl Bathurst for encouragement in a project for improving the sheep of the Australian Colonies by taking out Merino Rams from Ireland and by applying to the Flocks of the Colonies a better system of management. His correspondence with H.M. Government of that day terminated in his proceeding to V. D. Land with a few Merino Rams as an experiment, and with a letter from Earl Bathurst to the Lieut. Governor ordering him to make to Mr. Nowlan a Grant of land, and a reserve of adjoining land, the grant of which was to be dependent on subsequent circumstances. This letter,† dated 30 April, 1822, is no doubt on record. An extract accompanies this Despatch. Mr. Nowlan received a grant; but I understand

* Note 151.

† Note 154.

that the reserve has been the subject of a correspondence between the local Governmt. of Van Diemen's Land and the Secretary of State, whose decision regarding it has been unfavorable to Mr. Nowlan.

1835.
14 Jan.

In 1823, Mr. Nowlan opened a communication with Sir Thomas Brisbane proposing to introduce his system of sheep-Farming into New South Wales. Sir Thomas Brisbane consented to assist him in trying the experiment, allowing Mr. Nowlan to receive on personal security at long credit 300 Ewes (which had been purchased by the Government of a private Settler) and to place them on land at Hunter's River. Two thousand acres of the land assigned for this purpose are those now claimed as a grant, Mr. Nowlan asserting that they were promised him by Sir Thomas Brisbane in the event of his experiment succeeding. Mr. Nowlan further asserts that Sir Thomas Brisbane regarded the land as a reserve awarded to him under the terms of the Despatch of Earl Bathurst to Lieut. Governor Sorrell before alluded to.

Negotiations
and alleged
agreement with
Sir T. Brisbane.

Of these assertions, however, Mr. Nowlan produces no proof; and it would be too much to expect that, at this day, Sir Thomas Brisbane should have such a recollection of the case as to supply the deficiency. The only written communications, appealed to by Mr. Nowlan, consist of an application made by him to Sir Thomas Brisbane for a Lease in the year 1825, and of the answer thereto. Mr. Nowlan then complaining that the tenure, on which he held possession of the land at Hunter's River, did not protect him from trespassers, he requested a Lease for seven years with power to purchase at the expiration of that period, should he not have established claims upon the further indulgence of Government. To this application was returned an answer, of which a copy is transmitted herewith, and, in pursuance of the terms of that answer, he obtained two Leases for seven years, the one of the 2,000 acres in question at a pepper corn rent, the other of 3,800 acres at a rent of 3s. for every twenty acres.

Want of
documentary
proof by
T. Nowlan.

Leases granted
to T. Nowlan.

These Leases having expired and other applications being made by another person to purchase part of the land, Mr. Nowlan received notice to remove, when he brought forward a claim to a grant on the grounds already stated. I declined acceding to it, as no promise of Sir Thomas Brisbane was shewn to my satisfaction. I however directed that he should be allowed to purchase the land, if he desired it at the price of the day, or that he should be paid for improvements, according to the terms of the lease. A Copy of my minute to this effect is transmitted.

Claim to grant
on expiration
of lease.

Since this decision was notified, the matter has been again brought under my consideration, accompanied by Letters from

1835.
14 Jan.

the Collector of Internal Revenue and the Surveyor General, copies of which are herewith transmitted, and which disclose some features in the case not previously brought to my attention.

Evidence from
maps in survey
office.

It appears that, in various maps in the Surveyor General's Office, the 2,000 acres in question have been marked as a reserve for a grant in the same manner as many others which have been since converted into grants. It was in consequence of this further statement I brought the case under the consideration of the Executive Council, whose opinions were divided in the manner already stated. Upon a consideration of the whole case, though I do not think that Mr. Nowlan has made out any promise of a grant from Sir Thomas Brisbane, yet, as grants were very easily obtained at the time of these transactions, it is very probable that Sir Thomas Brisbane may have intended to have made Mr. Nowlan a grant of these 2,000 acres, if he succeeded in the very simple operation of breeding sheep upon good pasture and in a favorable climate, and may have expressed himself accordingly. Mr. Nowlan having succeeded in this experiment and paid for the sheep obtained through the Government, I would beg leave to unite with the Council in recommending that a grant be made to him of the 2,000 acres at the Quit-rent payable by the Regulations in force at the time he obtained possession of the land, and should be allowed to purchase the 3,800 acres upon the terms stated in my minute of the 28 September last before referred to.

Recommendation by
R. Bourke
in favour of
claims of
T. Nowlan.

I have, &c.,

RICHD. BOURKE.

[Enclosure No. 1.]

PROCEEDINGS of the Executive Council relative to the claim of
Mr. Timothy Nowlan to a Grant of land.

EXTRACT from Minute No. 1 of 7th January, 1835.

Present:—His Excellency the Governor; The Hon. Lieut. Col. Snodgrass; The Hon. the Colonial Secretary; The Hon. the Colonial Treasurer.

His Excellency the Governor laid before the Council certain papers relative to the claim of Mr. Timothy Nowlan to the grant of 2,000 acres of land situated at Hunter's River, which had been originally leased to him by Sir Thomas Brisbane at a pepper corn rent; and, after due deliberation, Lieut. Colonel Snodgrass was of opinion that Mr. Nowlan had a good claim to the portion of land above alluded to, and the Colonial Secretary and Colonial Treasurer were of opinion that, under the King's Instructions to the Governor, no Grant of land could be made to Mr. Nowlan of the land in question, inasmuch as no previous promise from any of His Excellency's predecessors has been established. But the Council agreed in recommending the case to the favorable consideration of the Secretary of State.

A true Extract:—E. DEAS THOMSON, Clk., Col.

Minute of
executive
council re
claims of
T. Nowlan.

[Enclosure No. 2.]

1835.
14 Jan.

EXTRACT from Letter of Earl Bathurst to Lieutenant Governor Sorell, dated Downing Street, 30th April, 1822.

“I have not felt any hesitation in giving encouragement to Mr. Nowlan’s proposals, and I have therefore to desire that you will make to him a grant of land on his arrival at the Derwent, consulting his wishes as far as possible in the selection of it, and reserving a Tract of Land adjoining, in order that he may look forward to the period that, when he shall have complied with the Terms of his first grant or shall have an increase of Capital, he may receive an additional allotment.”

Instructions *re*
land grant for
T. Nowlan.

BATHURST.

True Extract from original in possession of M. General Bourke:—

G. K. HOLDEN, Private Secretary.

N. S. Wales, 2 Jan., 1835.

[Enclosure No. 3.]

MR. T. NOWLAN TO SIR THOMAS BRISBANE.

Sir,

Sydney, 28th January, 1825.

The tenure, on which I held the Lands now in my possession by your Excellency’s permission on Hunter’s River, not affording me sufficient protection from trespasses, etc., I take the liberty of requesting that your Excellency will be pleased to grant me a Lease of these Lands for the term of 7 Years with a condition that on the expiration of this term (should I not have established claims upon the further indulgence of Government) to empower me to purchase these Lands according to the rate of purchase affixed by your Excellency on Land in that District, or upon my surrendering the said Lands that I might be allowed the value of all permanent improvements made thereon.

Request for
lease of land at
Hunter river.

I have, &c.,

T. NOWLAN.

[Enclosure No. 4.]

COLONIAL SECRETARY GOULBURN TO MR. T. NOWLAN.

Sir,

Colonial Secretary’s Office, 18th February, 1825.

In answer to your Letter of the 28 Ult., I am commanded by the Governor to acquaint you that a Lease of Seven years shall be prepared for you of such disposable Lands on the Banks of Hunters River as you may select, at the annual rate of Three Shillings for every Twenty acres (over the Five Thousand acres which you are permitted to hold at a peppercorn rent, in order to carry forward with success the experiment in which you have for some time been engaged) with the additional advantage that, should those Lands be taken from you at the expiration of that term, you are to be paid the value of all permanent improvements which you may have made upon them.

Lease granted
to T. Nowlan.

I have, &c.,

F. GOULBURN.

[Enclosure No. 5.]

COPY OF THE GOVERNOR’S MINUTE.

Mr. Nowlan to be informed that,

28 Sept., 1834.

I can not make any application to the Secretary of State on the Subject of the reserve claimed by Mr. Nowlan in V. D. Land. The Lt. Governor, whilst exercising the chief civil authority there, is the proper channel of communication with the Minister.

Refusal to
intervene *re*
reserve in
Tasmania.

1835.
14 Jan.
Decision by
R. Bourke
re land at
Hunter river.

With respect to Mr. Nowlan's agreement with Sir Thomas Brisbane, I consider it quite a distinct transaction from any proceeding in V. D.'s Land, under the authority of Earl Bathurst's despatch of 30 April, 1822. That despatch applies solely to V. D.'s Land. The agreement with Sir T. Brisbane is not stated in, nor can it be clearly collected from the papers laid before me; but I do not see any ground for the assumption that a *Grant* of the Land permitted to be occupied on the Hunter was to be the result of Mr. Nowlan's Success in breeding Sheep; on the contrary, Mr. Nowlan in his letter of the 28 Jany., 1825, applies only for a 7 years' lease of those Lands, with power at the expiration of the term to purchase them at the rate fixed for the District, or if he were ordered to be paid the value of any improvements made. The Col. Secy., in his reply of the 18th Feby. following, grants the Leases on certain terms, and agrees to the payment for permanent improvements, but is silent regarding the purchase. I think it is likely however that the power to purchase would not have been refused.

Mr. Nowlan may therefore be allowed to purchase either of the portions of Land (2,000 or 3,800 acres) or both at five shillings per acre on paying up immediately the rate of 15s. per 100 acres as fixed by the Col. Secy. in his letter of 18 Feby., 1825. The purchase Money to be paid in 3 instalments on the 1 Jany., 1835, 6 and 7, or he may surrender the Land and be paid for permanent improvements the value to be fixed by Arbitrators. Mr. Nowlan to be required to notify his decision by the 1 Novr. next, or the Land will be resumed by the Crown. R.B.

[Enclosure No. 6.]

MR. W. MACPHERSON TO COLONIAL SECRETARY MACLEAY.

(A No. 34/1023.)

Sir, Internal Revenue Office, Sydney, 4th Novr., 1834.

Application to
T. Nowlan for
payment of
rent.

Having on the 8 ultimo transmitted to Timothy Nowlan, Esqr., a Copy of your Letter of the 3d of October, A No. 34/96 and of Major Goulburn's letter therein referred to, dated 18 February, 1825, and requested that he would on or before the 1st Instant pay to me the sum of Two Hundred and Seventy six pounds 9s. 10d. as rent at the rate of fifteen Shillings per hundred acres per annum from the 18th of February, 1825, to the 31st of October, 1834, for three Thousand and Eight hundred acres of Land in the County of Durham and Parish of Middlehope, which he was informed, by Major Goulburn's letter above mentioned, that he was permitted to hold in Lease for seven years, he has addressed a Letter to me on the subject (dated 31st of October) of which a copy is annexed, and has further detailed his sentiments personally, the purport of which I shall now explain.

Claim by
T. Nowlan to
grant of land.

1st. In respect to the Five thousand acres which he was allowed to hold at a peppercorn rent, he conceives himself as having a good claim to a grant of this quantity.

The use of the words "peppercorn rent," he considers as in some degree implying not only that the Land would be Granted to him, but Granted to him free of Quitrent, if the Success of the experiment, in which he was engaged, should merit this mark of approbation.

In further support of his Claim, he states that, on several charts in the Surveyor General's Office, these Two thousand acres are

Stated as a Grant, and the Colour given to them is the same that is given to Reserves for Grants. Also that Mr. Henry Dangar, in his published Survey of the Hunters River Districts, includes these Two thousand acres among the Reserves for Grants; and gives them the Same distinguishing Mark "r" And, in Mr. Dangar's Manuscript book in the Surveyor General's Office, bearing his signature, with the Date 17th December, 1825, containing descriptions of Lands on the Hunter *Leased* and *purchased* (Commencing with the description of Four thousand acres purchased by Alexander Warren as permitted by an order dated 13th May, 1825), descriptions of the Three thousand Eight Hundred acres Leased to him (Mr. Nowlan) are included; but there is no description given of the Two thousand acres; affording further strong presumptive proof, that these Two Thousand Acres were not considered as either *purchased* or *leased*, but as a Grant or Reserve for a Grant, as entered in his Book and on the Maps.

1835.
14 Jan.

Evidence
tendered in
support of
claim.

I have examined several Maps in the Surveyor General's Office and also Dangar's published and Manuscript Books, and find that Mr. Nowlan's Statements are correct. On the Margin, I annex a Sketch taken from one of the Maps giving the entries of Names, quantities, etc., in exact conformity with the original.

2. In respect to the three thousand eight hundred acres, Mr. Nowlan admits the justice of the Claim for rent; but, as payment of the rents of the other Lands, purchased and Leased during the administrations of Sir Thomas Brisbane and General Darling, have not yet been enforced, he hopes he may be placed on a similar footing; And, if he retains the whole of the land, as it is his present purpose to do if he can arrange for the payments, that he may not be required to pay any rent, but only the price of five Shillings pr. acre, in like manner as so many purchasers, under authorities from Sir Thomas Brisbane, have been allowed to do.

Request by
T. Nowlan re
rent admitted.

Or if he is unable to make arrangements for the purchase of the whole Land, he then hopes that he may be required to pay rent only for so much of the Land as he gives up; And that the rate be only Two Shillings and sixpence p. hundred acres pr. annum, being the annual rate paid for Lands Leased by the Government under the late Regulations.

If His Excellency the Governor cannot accede to His Petition, he further prays that, before compulsory measures against him are ordered, either in respect to depriving him of the land or enforcing payment of the Rent, his case may be submitted for the consideration of the Right Honorable the Secretary of State.

I have, &c.,

WM. MACPHERSON,
Colr. Int. Revenue.

[Sub-enclosure.]

MR. T. NOWLAN TO MR. W. MACPHERSON.

Sir.

Sydney, 31st October, 1834.

In reply to your Letter of the 6th Instant, I beg leave to acquaint you that I am to enter into arrangements with you for the purchase money of the land ordered to be Leased in 1825, which appear by the charts or in the Surveyor General's office; and, as His Excellency the Governor has been pleased to consider this Lease as one ordered with a view to purchase, as other parties who

Request for
concessions on
purchase of
land.

1835.
14 Jan.

leased Land in that year with a view to purchase have not paid Rent, and that the individuals, who at that period had agreed to purchase Land, have been relieved from the payment of interest on the purchase Money, I trust His Excellency will be pleased to place me on the same footing with the parties, who in the year 1825 agreed to Rent and purchase Land in the district of Hunters River.

I remain, &c.,
TIMOTHY NOWLAN.

[Enclosure No. 7.]

SURVEYOR-GENERAL MITCHELL TO COLONIAL SECRETARY MACLEAY.
Sir, Surveyor General's Office, 1 November, 1834.

Report by
T. L. Mitchell
re claims of
T. Nowlan.

I have the honor to forward to you, as therein requested, a communication from Mr. T. Nowlan, dated 24th Octr., 1834, relative to the tenure of his lands at Hunter's River, and in which he represents that, in consequence of my report of January 1st, 1831, No. 31/1, His Excellency the Governor has an impression that the two thousand Acres, of which he is in possession, was to be held on lease instead of being held as a Grant, or as a Reserve for a grant; on reference to report 31/1, I find that I have so stated as Mr. Nowlan represents; this however was only done in consequence of the order not appearing in the order Book on the authority of your letter of the 18th February, 1825, which may certainly be otherwise interpreted. As stated by Mr. Nowlan, the two thousand acres in question appear marked on all the maps left by my predecessor Mr. Oxley as a Reserve for a grant, being coloured green, with numerous others that have since been converted into grants; and moreover I find that Mr. Dangar, the then Surveyor of the district, in his return of descriptions dated in 1825 of lands leased and purchased at Hunter's River, notices Mr. Nowlan's 3,800 acres as a lease; still no mention is made of the two thousand acres as a lease.

I have, &c.,
T. L. MITCHELL, S. G1.

GOVERNOR BOURKE TO RIGHT HON. T. SPRING RICE.

(Despatch No. 6, per ship William Metcalf.)

15 Jan.

Sir, Government House, 15th Jany., 1835.

Report re
mutiny of
convicts at
Norfolk island.

Understanding, from the concluding Paragraph of your Despatch of 1 Aug. last, No. 15, that you desire to receive some official account of the disturbance, which took place at Norfolk Island on the 15th Jany., 1834, I have the honor to report the principal facts of the case.

In the morning of that day between 5 and 6 o'Cl., a rush was made on the Guard which then received over as usual the Gaol gang, consisting of about thirty Convicts generally of the worst character to be escorted to work. About an equal number, under false pretexes of ill-health, had before this time been taken to the Hospital behind the Gaol under the usual escort of an over-seer; but, breaking out of the Lock-up in which they were detained

for examination by the Surgeon, they had overpowered and confined the attendants on the Hospital and some of the Patients. Having knocked off each other's Irons and armed themselves with such implements adapted for offence as the Hospital afforded, and being joined by other convicts from the Saw Pits and neighbouring places, they rushed on the guard at the moment of their taking in charge the Gaol gang, who by previous concert were to turn on the Soldiers in front. The gang accordingly refused to move when ordered, and a scuffle ensued in which the Guard were for a time nearly overpowered. This scuffle lasted some minutes, when the Soldiers, obtaining the free use of their Fire-arms and being reinforced from the Barracks, dispersed the Convicts, killing two and wounding eleven, of whom seven died of their wounds.

1835.
15 Jan.

Report re
mutiny of
convicts at
Norfolk island.

In the meantime, a party of Convicts at the Agricultural station at Longridge (about a mile and a half from the Gaol) had in furtherance of another part of the plan of Mutiny broken into the Tool House, and, armed with the Implements found there, were running to join their confederates. They arrived in time only to encrease the number of fugitives scattered before the fire of the Military, who captured great numbers of both the parties. Depositions being afterwards taken, 162 convicts were charged as being more or less implicated. These Depositions being laid before the attorney general at Sydney, he regarded the evidence as warranting the trial of fifty-five. As soon as the course of public business would permit, the Supreme Court was adjourned to Norfolk Island, and Mr. Justice Burton proceeded thither in H.M.S. Alligator, attended by a sufficient number of officers to make up a Jury, by the Crown Solicitor to prosecute, and an attorney appointed by the Judge to conduct the defence of the prisoners.

Trial of
prisoners.

The trials commenced on the 10th July, when 29 were capitally convicted. Their cases being reported to the Governor and Ex. Council on the return of the Judge to Sydney, 13 of the Criminals were ordered for Execution, the sentence of the remainder being commuted for various terms of additional servitude on the Island. The executions took place on the 22 and 23 September in the presence of the other Convicts on the Settlement. The Sheriff's Deputy, who proceeded from Sydney to Norfolk Island for the Execution, was attended by the Revd. H. T. Stiles, a chaplain of the Established Church, and by the Revd. Wm. Ullathorne, the Roman Catholic Vicar General, who attended the criminals of their respective persuasions before and at their execution.

Execution
of prisoners.

I have, &c.,

RICHD. BOURKE.

1835.
23 Jan.

GOVERNOR BOURKE TO UNDER SECRETARY HAY.
(Despatch per ship William Metcalf.)

Government House,

Sir, Sydney, 23rd January, 1835.

Omission of
enclosure from
despatch.

I have to regret that, in making up the Despatches forwarded by the British Sovereign on the 17th ult., a list of transported offenders illegally sentenced by Magistrates, intended to accompany my Despatch of the 14th ulto. No. 126, was omitted. It is forwarded by this opportunity with the Duplicate* of that Despatch, and I shall feel obliged by your rendering the original equally complete by the addition of the Copy of the same list, transmitted herewith.

I have, &c.,

RICHD. BOURKE.

UNDER SECRETARY HAY TO SIR RICHARD BOURKE.†

(Despatch marked "Private," per ship Marquis of Huntley.)

28 Jan.

My dear Sir, Downing Street, 28th January, 1835.

Despatches
acknowledged.

I have had the pleasure of receiving your Private letters of the 14th and 19th July last, which reached me on the 5th Instant.

Map of
colony by
T. L. Mitchell.

As I had no recollection of having held out to Major Mitchell any promise, on the part of the Secretary of State, that he would be allowed to publish for his Private Emolument the Map of the Colony which he has lately completed, I am glad to find that there are no expressions in my correspondence with him, which, in your opinion, bear such an interpretation; for, altho' the application, which Major Mitchell has now officially made to this Department upon the subject, has been acceded to by the Home Government, I should have been exceedingly sorry if I had really been the cause of the inconvenience which Major Mitchell is stated to have experienced from the unexpected obstacles, which have been opposed to the publication of his Map in the Colony as soon as it was finished, but which, in the absence of the express sanction of the Secretary of State, could not on your part be avoided. In a letter which Major Mitchell has addressed to me, he alludes to a Map of Sydney and its Environs, "according to an improved style of representing ground," which he was about to produce when the prohibition to the publication of his General Map of the Colony was announced to him. The sale of the latter having now been allowed, there will be no objection made by Lord Aberdeen to the Sale of the smaller work, nor indeed to that of any other of the same kind which he may be able to publish, provided it be not at the sacrifice of more important objects connected with the duties of his Department.

Proposed map
of Sydney.

Permission for
publication.

* Note 148. † Note 155.

I regret that the Instructions, which you have been so anxiously looking for in respect to the Establishment of Circuit Courts and to the improvement of the Jury system by the substitution of Civil for Military Juries, should have been so long suspended, and that a still further delay may very possibly take place before these questions can be finally settled. The importance of the subject has not however escaped Lord Aberdeen's notice, altho' his Lordship has not as yet had time to decide upon the measures, which you have recommended.

1835.
28 Jan.
—
Delay in
instructions *re*
circuit court
and jury system.

I am prepared to expect, notwithstanding the hopes which you have expressed to the contrary, that the Local Legislature of New South Wales will not lose any opportunity of entering upon discussions similar to those which have been so long going forward in Canada on subjects connected with the appropriation of a portion of its Revenues; and I have no doubt, from the Spirit and tendency of many of the Colonial Newspapers, added to the information which you have communicated as to the facility with which such publications can be now circulated throughout the Country, that, even if the Crown Revenue was to be differently disposed of, there would be still no want of subjects for grievance, upon which public writers in the Colony would exercise their ingenuity for the purpose of exciting discussion and discontent, and in order to obtain that influence over a certain portion of the Community which it would be otherwise very difficult for them to establish.

Problems *re*
appropriation
of colonial
revenues.

I am, &c.,

R. W. HAY.

EARL OF ABERDEEN TO SIR RICHARD BOURKE.
(Despatch No. 21, per ship Marquis of Huntley.)

Sir,

Downing Street, 29 January, 1835.

29 Jan.

The Secretary at War has referred for my consideration your letter of the 16th of June last, in which you recommend the claim of Captain Williams of the 4th Foot, Commandant of the Mounted Police, to compensation for the loss of a Horse, which was severely burnt by a Fire, which broke out in the Police Stables, the Secretary at War conceiving that, as the Horse was kept for the performance of the duties of a Colonial Appointment, the claim should be decided by this Department. The Secretary at War has further informed me that, had the Horse in question been kept by Captain Williams for the discharge of his duties as a Regimental Officer, no compensation could have been granted to him consistently with the provision of the 4th Article of the Losses Warrant, as it appeared that Captain

Compensation
claimed by
T. Williams for
loss of horse.

1835.
29 Jan.

Williams was not exonerated from blame, and that his Servant had acted very incautiously in leaving the Lantern, which occasioned the Fire, behind him when he quitted the Stable.

Refusal of
compensation.

Under these circumstances, I am sorry to acquaint you that I do not feel myself at liberty to grant compensation from the Colonial Funds to Captain Williams for a loss, which had it occurred in the course of Military Duty, would not have entitled him to indemnity.

I have, &c.,

ABERDEEN.

SIR RICHARD BOURKE TO RIGHT HON. T. SPRING RICE.
(Despatch No. 10, per ship William Metcalf; acknowledged by lord Glénelg, 4th July, 1835.)

30 Jan.

Sir, Government House, 30 January, 1835.

Claim by
military and
naval officers to
remission of
purchase money
on land.

I have the honor to transmit a Minute of the Ex. Council in reference to the claims of certain Military and Naval Officers for a remission of purchase money for Land in this Colony. The claim is made by the officers of the army under the general order* of the 1st August, 1831, and by the Naval Officers under a Govt. notice* issued here on the 6th March, 1832, by which officers of the Royal Navy and Marines are declared entitled to the same amount of remission as officers of the Army according to their relative rank and length of service. These gentlemen have been for some time past resident in N. S. Wales and have obtained Land under the usual conditions of ordinary Settlers. The Military officer having retired from the service by the Sale of his Commission and obtained the required Certificate from the Commander in Chief, and the Naval Officer producing his leave of absence from the Admiralty now desire to obtain land by purchase under the Regulations referred to. Against this claim is set up the Instruction contained in Secretary Sir George Murray's despatch to General Darling of the 1st November, 1829, No. 159.

Opinion of
executive
council.

The Council, being of opinion that this Despatch is conclusive against the claims now brought forward, recommend that the subject be again submitted to the consideration of the Secretary of State for the Colonies in the hope that he may be pleased to allow to these applicants and others similarly situated the Indulgence they solicit for the reasons stated in the Minute.

Despatch
acknowledged.

I take this opportunity of acknowledging the receipt of your Circular letter of the 20th August last, with its enclosures, which does not however seem to touch such cases as are now laid before you.

I have, &c.,

RICHD. BOURKE.

[Enclosure.]

1835.
30 Jan.

PROCEEDINGS of the Executive Council relative to *remission* to Military Officers who have already received Grants of land.

EXTRACT from Minute No. 27 of the 5th November, 1834.

Present:—His Excellency the Governor; The Hon. Lieut. Col. Snodgrass; The Hon. the Colonial Secretary; The Hon. the Colonial Treasurer.

Minutes of executive council *re* remission of purchase money on land to military and naval officers.

His Excellency the Governor laid upon the table applications from Lieutenant Colonel Dumaresq and Lieutenant Lethbridge, R.N., to be allowed the usual remission in the purchase money of land under the existing regulations in respect to retired officers, both of whom, it appears, have received Grants of land under the former regulations applicable to ordinary settlers. Also the despatch of the Right Honble. the Secretary of State relative to the application of Mr. Samuel Wright, late Captain in the 3rd Regiment of foot, to be allowed to hold certain lands assigned to him in the year 1827 on the same terms as were granted to Military and Naval Officers at the time he retired from the service for the purpose of settling in the Colony.

The Council were desirous of obtaining further papers in elucidation of the principle laid down by the Secretary of State in the above Despatch, and therefore recommended that the applications in question should in the mean time remain for further consideration.

Extract from Minute, No. 29 of 28th November, 1834.

Present as before.

The Council, in reference to the proceedings on the 5th instant, resumed the consideration of the applications of Lieut.-Colonel Dumaresq and Lieut. Lethbridge, R.N., to be allowed the usual remission in the purchase money of land to retired Officers having previously received Grants as ordinary Settlers.

His Excellency the Governor now laid upon the table the Despatches of the Right Honble. the Secretary of State, No. 129 of the 1st and No. 149 of the 16th November, 1829, No. 20 of the 21st September, 1831, and No. 79 of 18th May, 1834.

The Council, after an attentive consideration of the Subject, were of opinion that, consistently with the Instructions of His Majesty's Government as conveyed in Secretary Sir George Murray's Despatch to Lieut. General Darling under date the 1st November, 1829, it is not within the competency of the local Government to allow any remission in the purchase of lands to Naval or Military Officers retiring from the service, who have previously obtained Grants of land in the Colony. The Council at the same time recommended that the Subject Should be again brought under the consideration of the Secretary of State for the Colonies, with a view to his coming to a decision more favorable to the expectations of Officers, many of whom now in the Colony, having either lately disposed of their Commissions, or proposing to do so, with the hope of receiving the remission on such lands as they may hereafter purchase.

True Extracts:—E. DEAS THOMSON, Clk., Col.

1835.
31 Jan.

EARL OF ABERDEEN TO SIR RICHARD BOURKE.
(Despatch No. 22, per ship Marquis of Huntley.)

Sir, Downing Street, 31 January, 1835.

Despatch
acknowledged.

I have had under my consideration your despatch No. 29 of the 22d of March last, relative to a pecuniary claim made by Mr. Simpson, by virtue of an Agreement with a former Governor of New South Wales, Sir Thos. Brisbane, on the interpretation of which a difference of opinion arose between the Local Government and Mr. Simpson during the administration of General Darling, the result of which was the payment to Mr. Simpson of a Sum less in amount than that to which he considered himself entitled under the Agreement in question.

Refusal to
reconsider
claims of
P. Simpson.

After the decision, to which the Governor and Council came upon this case in the year 1826, and which was approved by Earl Bathurst in his Lordship's despatch of the 12th of Decr. of the same year, I am not prepared to acquiesce in the request made by Mr. Simpson that the Subject should undergo re-investigation, the more especially as I consider that, by the strict letter of the agreement under which Mr. Simpson undertook the Superintendence of the Farm at Wellington Valley, the Governor and Council were fully justified in the construction, which they had given to it; and that, in the arrangement subsequently adopted for adjusting the balance of Mr. Simpson's Account, added to the public employment which has been continued to him from the time that his former Situation was abolished, that Gentleman has no reasonable ground of complaint against the Local Government.

Disapproval
of appeals
to courts of
law by civil
officials.

I beg to observe in conclusion that the case of Mr. Harris, which is referred to in your despatch, does not appear to me by any means analogous to that of Mr. Simpson, nor do I deem it consistent with the Interest of the Public Service that Officers in the employment of Government should be allowed to appeal to a Court of Law for redress if dissatisfied with its decision in respect to any claim arising out of such employment, which may be at any time brought forward, however distant the period may be at which the transaction occurred.

I am, &c.,

ABERDEEN.

EARL OF ABERDEEN TO SIR RICHARD BOURKE.
(Despatch marked "Circular," per ship Westmoreland.)

1 Feb.

Sir, Downing Street, 1st February, 1835.

Some inconvenience having arisen from the occasional want of regularity in announcing to the Governors of His Majesty's Colonies the receipt of their dispatches, I am to acquaint

you that henceforth, on the arrival at this Office of every Mail, you will receive from this Department a dispatch of which the single object will be to enumerate and acknowledge the receipt of the various dispatches, which may on any such occasion have arrived from you. If no further notice should be taken of any such dispatch, you will consider that general acknowledgement as the only answer which it has been thought necessary to convey to you.

1835.
1 Feb.

Method for general acknowledgment of despatches.

I am, &c.,

ABERDEEN.

SIR RICHARD BOURKE TO RIGHT HON. T. SPRING RICE.
(Despatch No. 12. per ship William Metcalf.)

Sir, Government House, 1 Feby., 1835.

I beg leave again to bring under your notice the situation of the British Resident at New Zealand at the request of that officer himself, conveyed in his letter of the 28th November last, received here since I had the honor to address you on this subject in my Despatch of the 6th Decr., No. 123. I annex such extracts from Mr. Busby's communications as are necessary for the full explanation of the case, of which it may be convenient in this place to submit a brief abstract.

Situation of British resident in New Zealand.

Mr. Busby proceeded to New Zealand as British Resident in the month of April, 1833, under the authority of the Secretary of State for the Colonies and furnished with Instructions from this Government, of which a copy has been sent to the Colonial office. It will be observed that in those instructions Mr. Busby is taught to rely for success in his mission chiefly on the influence he should obtain over the Native Chiefs, as it was not the intention of H.M. Govt. to place any Military force in New Zealand. I was however given to understand that British Ships of War would more frequently appear off these Coasts, and that a legal power under a British act of Parliament would be given to the Resident to apprehend in New Zealand offenders, subjects of the King of England, and send them to New South Wales for trial. The frequent presence of the Ships of War and the authority of the statute would, it was hoped, add much to his influence over the Native Chiefs. It has happened, however, that since that time no additional ships of war have been sent into these Seas, nor has the expected act of Parliament been passed. From these or it may be from other causes, the Resident has failed to obtain any considerable degree of respect among the New Zealanders. It will appear by the papers transmitted herewith that on one occasion his life was endangered by the attack

Conditions of appointment of J. Busby.

Failure of J. Busby to obtain influence on Maoris.

1835.
1 Feb.

of a neighbouring chief. Upon this subject, however, I need not enter into any details, as Mr. Busby reported the occurrence to Mr. Under Secretary Hay, in a letter addressed to that Gentleman from the Bay of Islands on the 3rd May last.

(Chief involved
in attack on
house of
J. Busby.

It was not until the middle of last October that Mr. Busby was enabled to discover the Persons, who assailed his house and fired at him. The Principal was found to be a Chief of the name of Rete. Information having been given to the other chiefs residing at and near the Bay of Islands and to the Missionaries, a meeting was held at which fourteen of the former attended, when it was determined (Rete having confessed his guilt) that the Land of the Delinquent should be forfeited to the Resident or the King of England and that Rete should be banished. Having brought the subject before the Executive Council, it has been recommended that Mr. Busby should be directed to take possession of the Land in the name of the King until His Majesty's pleasure shall be known.

Decision of
chiefs re
punishment
of Rete.

Refusal of
request by
J. Busby
for guards.

Having also laid before Council Mr. Busby's letter of the 28th November last, representing the difficulty of his situation and suggesting the appointment of certain persons to be stationed in his House for the security of his family and giving greater efficiency to his appointment, the Council entirely concurred in the view, I had taken of the Resident's appointment, and advised that no additional expence should be incurred by this Colony until a reply should be obtained from H.M. Govt. to the Despatch above referred to.

Refusal from
Tasmania to
assist in
maintenance
of resident.

I have been disposed to concur fully in the recommendation of Council to avoid any further expence in the present state of the Residency from a conviction that the appointment of the two persons proposed by Mr. Busby could not add materially to his authority or security, if he lost the good will and respect of the natives. I believe also that any proposition for further expence in maintaining his appointment would not be favorably received by the Public or Legislative Council of this Colony, more especially as, by the Copy of a letter from the Colonial Secretary of Van Diemen's Land herewith transmitted, it will be seen that Government has declined to bear any part of the charge.

I have the honor to transmit a Petition from the British Traders residing at New Zealand praying for greater protection.

I have, &c.,

RICHD. BOURKE.

[Enclosures.]

[Copies of these papers will be found in a volume in series III.]

SIR RICHARD BOURKE TO RIGHT HON. T. SPRING RICE.
(Despatch No. 13, per ship William Metcalf.)

1835.
2 Feb.

Sir, Government House, 2 Feby., 1835.

On the occasion of the late Dr. Wardell* being murdered in September last by a runaway convict whom he was endeavouring to apprehend, it was notified by authority of this Government that application would be made on behalf of any Prisoner of the Crown, who should discover the Perpetrator.

Reward for discovery of murderer of R. Wardell.

I have therefore the honor to recommend to His Majesty for a free Pardon William Stapleton, the particulars of whose conviction and transportation are stated in the margin,† this convict having been the means of apprehending the murderer and his accomplices, who, with the exception of one of the latter admitted approver, have been convicted and executed. The recent date of Stapleton's conviction deprives me of the power of extending to him any indulgence whatever. I have therefore to solicit the transmission of his Pardon from England.

Pardon proposed for W. Stapleton.

I have, &c.,
RICHD. BOURKE.

SIR RICHARD BOURKE TO RIGHT HON. T. SPRING RICE.
(Despatch No. 14, per ship William Metcalf; acknowledged by lord Glenelg, 16th October, 1835.)

Sir, Government House, 3 February, 1835.

3 Feb.

At the desire of Mr. Laidley, Deputy Commissary General on this station, I have the honor to transmit a memorial which he has addressed to me praying for remuneration for duties performed by him in the service of this Colony for a period of nearly four and a half years ending with 31 Decr., 1831. There can be no doubt that Mr. Laidley discharged the duty to which he refers, and that he did not receive remuneration of any kind, notwithstanding that it had been granted to the officer who immediately preceded him in the charge of the Commissariat. He applies now for remuneration at a moderate rate and payable in a manner conformable to the practice lately adopted in similar cases, namely for a remission of the purchase money at the rate of 5s. per acre of six sections or 3,840 acres of Land to be offered for sale on the application and selection of memorialist. The remission, amounting to £960, would thus form the remuneration of 4½ years' service.

Memorial from J. Laidley for remission of purchase money on land for services performed.

It does not appear that any intimation was made to Mr. Laidley, on his being employed in the Colony, that his situation was to be so much inferior in emolument to that of his predecessor. He had good reason therefore for expecting advantages beyond those

Recommendation in favour of application.

* Note 157.

† Note 158.

1835.
3 Feb.

Recommendation in favour of application.

of his appointment as D. C. Genl. in return for duties which that appointment did not embrace. Having been denied these advantages, he now solicits some compensation from H.M. Govt.

Mr. Laidley is a very meritorious officer, which I have more than once had occasion to represent; and, as he means to settle with a large family in the Colony, I beg leave to recommend the application to your most favorable consideration.

I have, &c.,

RICHD. BOURKE.

[Enclosure.]

[*A copy of this memorial is not available.*]

SIR RICHARD BOURKE TO RIGHT HON. T. SPRING RICE.

(Despatch No. 17, per ship John Barry; acknowledged by lord Glenelg, 31st July, 1835.)

6 Feb.

Proposed revision of land regulations.

Sir, Government House, 6 February, 1835.

I have the honor to bring under your notice for the purpose of revision certain parts of the Land Regulations issued by my Predecessor with the advice of the Ex. Council in the year 1831, and subsequently approved by the Secretary of State for the Colonies. The Regulations* proposed for revision are those of the 1 and 25 August, 1831. They relate chiefly to claims on the part of this Government for rent charged on lands, of which possession was taken under the regulations in force at the time the several occupiers obtained it. These Regulations varied considerably at different periods and hence there existed at the time referred to several classes of persons upon whom the Government had claims, all of which it was proposed to adjust by the Regulations of the 1st and 25th August, 1831. An adjustment of some kind was required in consequence of the introduction at that time of the New system for disposing of the Crown Lands by sale only.

Necessity for adjustment *re* various tenures of land.

The various tenures, under which Land was then possessed or occupied, rendered this adjustment a complicated and perplexing operation; but I am far from thinking the arrangement adopted by Council is open to the charges of injustice and partiality which have been alleged against it. I can perceive nothing unjust in a demand, which in no instance exceeds that which the Party, on whom the claim is made, consented to discharge and for which he obtained a valuable consideration under the agreement. It may, however, in many cases be injudicious to press an obnoxious claim, however just; and it is chiefly upon this view of the subject that I propose, in concurrence with the Ex. Council, a revision of the Regulations of August, 1831.

* Note 159.

These Regulations are given in the printed paper, and the objections urged against them in a letter* of the Collector of Internal Revenue to the Colonial Secretary of which Copies are transmitted herewith. I should probably fail to render the subject clear, if I were to attempt an abbreviation of these documents; I must therefore solicit your perusal of both of them to enable you to arrive at a perfect understanding of the case. The Collector of Internal Revenue has given his best attention to these and the other Land Regulations since their promulgation in 1831, and he has had very many opportunities of judging of their operation, and of the feeling with which they have been received. At first opposed to them in principle, Mr. Macpherson has since represented the great repugnance manifested by all whom he has called on to satisfy the claim and the probability from the want of legal proof that in many cases an attempt to recover the demand in a court of Law would fail, whilst the Government, whether successful or otherwise, would suffer in public estimation. He has stated that, though the purchase money of Land subject to these anterior Rents has been very generally paid up, the Rent still remains due on all, nor can any application obtain payment. It has been under the influence of these representations, which the Collector has repeatedly urged, that the Council after several deliberations has at last consented to recommend the reduction of these rents in most cases to an amount nearly nominal and in some to advise its entire remission.

1835.
6 Feb.

Report *re* land regulations.

Objections to collection of rents.

Recommendation for reduction and remission of rents.

The apparent loss to the Revenue by adopting this recommendation of Council will amount to five thousand pounds nearly. The loss is called apparent only, as, for the reasons already given, it is probable that a great portion of the demand would never be recovered; and in litigated cases, even where the issue might be successful, there would be some charges to be set against the amount recovered.

Apparent loss to revenue by proposals.

Upon the whole, therefore, having deemed it right to bring the repeated representations of the Collector of Internal Revenue under the deliberation of Council, I consider it my duty respectfully to recommend a compliance with their advice, and to solicit your authority for carrying the propositions of the Collector into effect. As this matter has been long under discussion, I venture to beg the favor of an early reply.

Opinion of R. Bourke.

To prevent any misunderstanding from similarity of names, I think it right to observe that the rents in question are claimed for the occupation of land prior to purchase under the old regulations, and are totally distinct from Quit Rents with which the Lands still remain charged.

Definition of term "rents."

I have, &c.,

RICHD. BOURKE.

* Note 160.

1835.
8 Feb.

SIR RICHARD BOURKE TO RIGHT HON. T. SPRING RICE.
(Despatch No. 19, per ship John Barry; acknowledged by
lord Glenelg, 5th August, 1835.)

Sir, Government House, 8th February, 1835.

Referring to my Despatch of the 2nd October, 1833, No. 78, and understanding from the first Police Magistrate, H. C. Wilson, Esq., that some official communication of the resignation on the part of Captain Rossi of his office of Superintendent of Police is required before the nomination of the former gentleman will be confirmed, I have the honor to inform you that Captn. Rossi was permitted to sell and has sold his Commission in the Army upon the express condition of resigning his appointment in the Police, from which he has accordingly retired altogether since the 30th day of November last, and from the 1st December ensuing the whole emoluments of the office have been paid to Col. Wilson.

Resignation of
F. N. Rossi as
superintendent
of police.

Salaries
proposed for
C. Windeyer and
H. C. Wilson.

I beg leave further to represent to you that, in my Despatch of 5th Octr., 1833, No. 83, transmitting a memorial from Mr. Windeyer, 2nd Police Magistrate for augmentation of Salary, I proposed to allow that gentleman an addition of £50 a year and submitted that, to avoid expence, an equal sum might be taken from the Salary of the first Magistrate. I have since had opportunities of judging more accurately of the duty required of the latter; and, finding he cannot perform them in the zealous and active manner for which he is distinguished without keeping two Horses (for which he receives no allowance) and incurring other considerable expence, I very earnestly entreat that he may continue to receive the full allowance of £700 a year, and that Mr. Windeyer's Salary may be augmented from the public purse without prejudice to Col. Wilson, whose services since his appointment deserve my unqualified approbation and are duly appreciated by the Public.

I have, &c.,

RICHD. BOURKE.

SIR RICHARD BOURKE TO RIGHT HON. T. SPRING RICE.
(Despatch No. 21, per ship John Barry; acknowledged by
lord Glenelg, 6th August, 1835.)

Sir, Government House, 8 Feby., 1835.

By Mr. Secretary Stanley's Despatch No. 45 of 28th Sept., 1833, I was authorised to notify that Quit rents payable on the Crown Lands of this Colony might be redeemed at ten years' purchase by all who should avail themselves of the permission within one year.

Redemption
of quit rents.

This year from the date of the notice accordingly issued will expire on the 18th inst. It appears however that very few settlers have taken advantage of the offer, and I have the honor to transmit a Minute of the Ex. Council, in which it is recommended that another year be allowed for applications to redeem these rents from the receipt of the instructions now requested, the rate of purchase being adjusted by the council according to the existing rate of interest.

1835.
8 Feb.

Proposed extension of time for redemption of quit rents.

It is supposed by the Council and with some reason that the very high interest on money in this Colony has led to its being regarded as unprofitable to redeem these rents even at ten years' purchase. But it is probable the rate of interest will be speedily so far reduced by the rapid introduction of capital as to render it expedient rather to raise than lower the terms, on which the redemption is to be allowed, by the time that your instructions will be received on the subject of the accompanying minute.

Reasons for delay in redemption of quit rents.

Under all the circumstances, I fully concur in recommending the extension of time proposed, and that it be left to the Council to determine the number of years purchase to be paid according to the existing rate of interest which it is impossible to anticipate exactly.

I have, &c.,

RICHD. BOURKE.

[Enclosure.]

PROCEEDINGS of the Executive Council relative to the redemption of Quit rents at 10 years' purchase.

Minute of executive council re extension of time for redemption of quit rents.

EXTRACT from Minute No. 2 of 16th January, 1835.

Present:—His Excellency the Governor; The Honble. Lt. Col. Snodgrass; The Honble. the Colonial Secretary; The Honble. the Colonial Treasurer.

His Excellency the Governor laid upon the table a letter from the Collector of internal revenue, proposing an extension of the time allowed by the Government Notice of the 18th February, 1834, for the redemption of quit rents at Ten years' purchase, which expires on the 18th proximo, together with an Extract from Mr. Secretary Stanley's Despatch No. 45 of 28th September, 1833, relative to this subject.

The Collector of internal Revenue, having been introduced, Stated that a few only of the Settlers had availed themselves of the advantage held out by the Regulation in question, but that, if the period were extended for 3 or 6 months, he thought that, from the increased prosperity of the Colony, especially of the Agricultural interests, many would thus be able to do so, who could not at an earlier period. The non-delivery of the Deeds of Grant had also in some instances caused a difficulty in the redemption of the Quit rents, which an extension of time would allow of being in some measure removed.

It may be observed that the reduction of the period of redemption to ten years' purchase has not operated as so strong an inducement to avail of this arrangement as might have been expected, the

1835.
8 Feb.

Minute of
executive
council *re*
extension of
time for
redemption
of quit rents.

current rate of interest in the Colony being at least 10 per cent., while much higher rates can frequently be obtained on good security.

The Council after due deliberation were of opinion that, consistently with the Instructions conveyed in the abovementioned Despatch, it was not competent for the local Government to grant any extension of time beyond that fixed by the Right Honorable the Secretary of State, but recommended that a reference be made to that Minister to extend the period for another year for redeeming the quit rent at ten years' purchase, or what may appear to the Council at the time a fair redemption with reference to the then existing rate of interest.

A true Extract:—E. DEAS THOMSON, Clk., Col.

SIR RICHARD BOURKE TO RIGHT HON. T. SPRING RICE.
(Despatch No. 22, per ship John Barry; acknowledged by
lord Glenelg, 7th August, 1835.)

Sir, Government House, 8 February, 1835.

In my Despatch of the 5th February, 1833, No. 19, I had the honor to inform the Secretary of State for the Colonies that, upon the breaking up of the Lumber Yard in Sydney at the beginning of the year 1832, I found it necessary to appoint a Board of officers to superintend the construction and repairs of Military and Convict Buildings upon the principle and as nearly as possible under the regulations which govern the proceedings of the Boards of Respective officers in those Colonies which possess them. The Board in N. S. Wales, consisting of Lt. Colonel Snodgrass, Major of Brigade, Dy. Commissary General Laidley, Captn. Hunter, Asst. Military Secretary, J. Jackson, Esqre., Acting Barrack-Master, have discharged the duties required of them to the benefit of the public service and to my entire satisfaction. Under their orders is placed a Clerk of Works and other Individuals returned in the List I have the honor to transmit.

Appointment
of board for
control of
military and
convict
buildings.

Employment of
clerk of works.

The Clerk of Works, who is a person of very considerable merit, was originally employed in the Colonial Service, holding an appointment in the Lumber yard, of which the Salary was gradually to augment to £300 a year. Upon the reduction of that Establishment, he was continued in employment under the Colonial architect and subsequently placed under the orders of the Board with a Salary of £200 a year and an allowance of £50 lodging money. He was told that the annual augmentation of his Salary would be suspended, until the Commands of His Majesty's Government were received upon the appointment of the Board, and of the professional persons under its direction.

In this way the matter has stood until the present time, no communication having been received on the subject from H.M.'s Governmt., and the Board and Clerk of Works continuing to discharge the first a very responsible, and the second a very

laborious duty. The Board has now represented to me the inadequacy of the Salary of the Clerk of Works and urged its augmentation to £350 per annum, which with the lodging allowee. of £50 would make the Clerk's Emoluments equal to those of the Colonial Architect. Being fully aware of the merits of Mr. Buchanan, and finding that his duties become every day more heavy and important from the additions made to the number of convicts and as a necessary consequence to the military Establishments, I have thought it both just and prudent to comply with this request and augment the Salary of the Clerk of works from the first day of this year. Were Mr. Buchanan to seek private employment, I should find it difficult to replace him at the rate now allowed. I have thus to request the sanction of H.M.'s Government to this augmentation.

1835.
8 Feb.
Proposed
increase of
salary for clerk
of works.

At the same sitting, the Board brought under my notice the time the members have served, the saving of expense which their employment effects, and the complete occupation of their time in discharging duties not contemplated by their respective Commissions except perhaps in the case of the Barrack-Master. For this extra employment, they solicit some remuneration. I can bear the strongest testimony to the upright, careful, and regular discharge of the duty I have required of them; and it would give me great satisfaction to be authorised to make to the first three officers of the Board an allowance of five shillings a day.

Request by
members of
board for
remuneration.

The proceedings of the Board of the 29th ulto. are transmitted herewith.

I have, &c.,

RICHD. BOURKE.

[Enclosures.]

[*These papers will be found in a volume in series II.*]

SIR RICHARD BOURKE TO RIGHT HON. T. SPRING RICE.

(Despatch No. 23, per ship Governor Harcourt; acknowledged by lord Glenelg, 30th July, 1835.)

Sir,

Government House, 9 Febr., 1835.

9 Feb.

I should lament having to trouble you with any further communication relative to the Petition to His Majesty, which has been the subject of former correspondence,* did not the letter I have now the honor to transmit exhibit in true colors the objects and feelings of the prime movers in the whole proceeding.

Transmission of
correspondence
re petition to
H.M. the King.

They correctly state that, on my receiving from Mr. Webber the copy of their Petition, I directed them to be informed of my having previously laid one before the Secretary of State. The object of their present letter is to appeal to you for protection against what they term "so novel a mode of proceeding" affecting them, as they assert, "with surprise and alarm," while they

* Note 161.

1835.
9 Feb.

insinuate that I have committed a breach of faith in making use of what is said to have been "furnished in a spirit of honorable confidence."

Transmission
of copy of
petition by
R. Bourke.

The confidential communication of a copy of a Petition to the King on a question of Criminal Jurisprudence, which had been for six months in circulation through an extensive District of the Colony, and had been exhibited also in Sydney and described in the Newspaper patronized by the Gentlemen, whose letter is now transmitted as a document likely "to unseat the Governor," is a supposition so strange that I might leave it to find an answer in its own absurdity. I am however enabled to forward letters from those through whose agency the copy was obtained, which clearly shew that no condition whatever was imposed with regard to the use to be made of it. I might add that about the same time a copy was sent to me by a humble Individual, who, conceiving that the process adopted by the principal Petitioners was unfair towards the Government, deemed it his duty as a loyal subject to bring the document under my notice. I may perhaps be thought blameable in not having procured a copy and sent it to H.M.'s Government at an earlier period; but, being perfectly convinced that the operation of the act complained of was in no wise prejudicial to the Colony, I considered the petition as the ebullition of a little party-spirit; and, until it began to be descanted on in the Newspapers* and that some intimation was given of an intention to call a public meeting to protest against the averments it contained, I did not think it worth while to meddle with it.

Petition
disavowed
by signatory.

I take this opportunity of forwarding a letter from one of the persons whose signatures were placed on the paper attached to the Document presented in December last, disavowing the Petition as ultimately forwarded, and declaring his entire ignorance of the alterations made therein.

I have, &c.,
RICHD. BOURKE.

[Enclosure A.]

[A copy of this letter is not available.]

[Enclosure B.]

LIEUTENANT CAMPBELL TO COLONIAL SECRETARY MACLEAY.

Government Cottage,

Maitland, 23rd January, 1835.

Sir,

In reply to your letter of the 21st Instant, I beg to relate for His Excellency The Governor's information:—

Copy of petition
offered to
P. L. Campbell.

That, when I was visiting the Hunters River in May of last Year, Mr. Robert Scott of Glendon proposed to afford me a Copy of the Petition to which you allude (and which I believed to be then on the eve of transmission to England); desiring however that my

presence there should be unconnected with Political views. I declined at the time that Gentleman's Offer. On my return to Sydney, it became my duty, in the Station I held on The Governor's Staff,* to inform His Excellency of the existence of so violent an endeavor to subvert a material act of his Government, and moreover to give His Excellency an Opportunity of seeing the Instrument, by means of which it was intended that this should be done. To effect the latter object, instead of availing myself of the *private* medium of Mr. Scott, I chose rather to apply to the Government Officer of his District, and therefore in June wrote to Captain Forbes for a Copy of the document in question, which that Officer (acting up to the Spirit of my request) procured for me, openly and unconditionally from the Committee.

1835.
9 Feb.
Copy of petition,
procured by
P. L. Campbell.

Thus, Sir, In July I received a *Public Document*, a Copy of the Petition to His Majesty, which I am aware *had been for some time previously* in circulation for signature thro. the Hunters River Districts.

I have, &c.,

P. LAURENTZ CAMPBELL,
Lieut., Royal Scots Fusiliers.

[Enclosure C.]

MR. C. FORBES TO COLONIAL SECRETARY MACLEAY.

Sir, Patrick's Plains, 26th Jany., 1835.

In reply to your letter of the 21st Jany., 1835. No. 35/57, I have the honor to state for the information of His Excellency the Governor That, upon the receipt of Lt. Campbell's letter applying to me for a Copy of the Petition, I went to Mr. Scott of Glendon, and asked if he would give me one for him, which he did; and I believe the one I forwarded to Lt. Campbell was a correct Copy of the Petition which had been previously and was afterwards in circulation in the Hunters River District and obtained Signatures.

Copy of petition
procured by
C. Forbes.

I have, &c.,

CHAS. FORBES, J.P.

[Enclosure D.]

MR. J. PHILLIPS TO GOVERNOR BOURKE.

Bona Vista, Hunters River,

May it please your Excellency. 14 January, 1835.

Having been informed that a Petition from certain Landholders and Residents of the District of Hunters River, praying that His Majesty would order immediate enquiry into the truth of certain allegations brought forward by the Petitioners in two Petitions addressed to your Excellency and the Honble. The Legislative Council, and to which Petition my name was subscribed, has received some addition and alterations subsequently to the affixing of my signature I have not seen, nor have been made acquainted with their precise nature and their extent. I take the liberty to request that your Excellency will be pleased to consider my name as withdrawn from the List of Subscribers to the said Petition, and that you will be further pleased to allow this communication to accompany the said Petition when it may be transmitted to England.

Request by
J. Phillips for
withdrawal
of name from
petition.

I have, &c.,

JAMES PHILLIPS.

1835.
12 Feb.

SIR RICHARD BOURKE TO RIGHT HON. T. SPRING RICE.
(Despatch No. 26, per ship Governor Harcourt; acknowledged by
lord Glenelg, 12th July, 1835.)

Sir, Government House, 12 Feby., 1835.

Statement *re*
alteration of
indent of
convicts per
ship *Royal*
Admiral.

I have the honor to enclose a statement received from the Officer employed in mustering the Convicts, who arrived by the Ship Royal Admiral from Ireland on the 22nd Janry. last, describing certain alterations and erasures made therein and mentioning doubts entertained with regard to the sentences of some of the Convicts. I have thought it right to forward this statement in order that the truth of the case may be enquired into and communicated to this Government with a view to the parties being justly dealt with.

I have, &c.,

RICHD. BOURKE.

[Enclosure.]

[*A copy of this statement is not available.*]

EARL OF ABERDEEN TO SIR RICHARD BOURKE.
(Despatch No. 23, per ship Marquis of Huntley.)

13 Feb.

Sir, Downing Street, 13 February, 1835.

Consideration
of estimates of
expenditure for
1835.

I have received and had under my consideration your despatch No. 61 of the 8th of July last, with which you have transmitted the Estimates of Expenditure for the year 1835, and a supplementary Estimate of certain expences forming a charge on the Colonial Revenue incurred in the year 1834, but which were not provided for in the regular Estimates for that year.

Approval of
employment
of convicts on
main roads.

I approve of the determination to which you came of employing the Convicts, whom the late arrangements for their Classification had placed at the Service of the Local Government, in completing the Lines of Road now under formation, as well as in executing such other Works as the exigencies of the Public Service required; but, adverting to the Expenditure, which you had contemplated in the formation and improvement of the Streets of Sydney, I trust that you have confined all operations of that nature to such objects only as were requisite for the proper accommodation of the Inhabitants, and that no part of the sum appropriated for that purpose will have been employed in the mere embellishment of the Town, or in any other mode not of immediate and indispensable necessity.

Criticism of
expenditure
on streets of
Sydney.

The subject of religious Instruction and Education generally in New South Wales, which was under the consideration of the Government at the period I was honored by the King with the Seals of this Department, has not failed to receive my most serious attention; and, although I am not, at present, prepared to

state what may be the measures ultimately decided upon for increasing the efficiency of the Clerical Establishment, and for diffusing the Advantages of Education among the poorer Classes of the Community, I confidently expected that the arrangements, which the Government may finally determine to adopt in this respect, will be completed, previously to the return to the Colony of the Archdeacon, with whom I have already had several Interviews upon this very important and interesting subject.

1835.
13 Feb.

Problems of
church control
and education.

I presume that, in speaking of the augmentation of the Police, you refer to the measures which you adopted for increasing the efficiency of the Sydney Police, and which were confirmed by my Predecessor's dispatch No. 44 of 16th of Novr. last. Should that be the case, it is only necessary for me to express my satisfaction at finding that, by calling upon the Council to appropriate £3,000 more than has hitherto been paid from the Colonial Revenue towards the maintenance of the Police Establishment, you have anticipated the arrangement communicated to you on the 15th Novr. last for transferring to the Colony the entire charge of the Police and Gaols and a portion of the Colonial Marine, which from their being of a mixed character, in reference to objects of indispensable necessity, whether the Colony be regarded as a Penal Settlement or otherwise, Lord Goderich, in the year 1827, decided should be defrayed by the Mother Country out of Funds provided by Parliament for the expence of Convicts, until the pecuniary resources of the Colony should admit of a different arrangement.

Increase of
expenditure on
police.

In regard to the new Gaol at Berrima,* for the erection of which a Contract has been entered into to the amount of £5,300, I have to observe that it is to be regretted that, before authorising the commencement of a Work of such magnitude, you had not waited for Instructions from Home, as, in all probability, Plans and Estimates for a suitable Building might have been obtained from the Ordnance Department, which would have enabled you to reduce the Expenditure proposed for this Service, a course which, at the suggestion of the Board of Treasury, has been adopted in regard to the Gaol, recommended in your dispatch No. 19 of the 5th of February, 1833, to be erected out of Sydney in lieu of the delapidated one in George Street. The proposal submitted by you, in respect to the payment of the cost of erecting the Gaol at Berrima, having been superseded by the general arrangement before mentioned, it becomes unnecessary that I should notice more particularly this part of your dispatch.

Criticism of
erection of gaol
at Berrima.

Plans to be
transmitted for
gaol at Sydney.

The necessity of appointing a Commission to investigate claims to grants of Land having been satisfactorily established, I see no objection to the remuneration which you propose to allow to the

1835.
13 Feb.

Approval of allowances for commissioners of court of claims.

Appointment of civil engineer unnecessary.

Commissioners for performing this duty, the more especially as I observe that a considerable portion, if not the whole of the expence of this Commission, will be met by the Fees payable by respective Claimants on possession being given to them of their Title Deeds.

The appointment of a Civil Engineer, whom you consider requisite to superintend the construction of the numerous Public Works in the Colony, will, it is conceived, be rendered unnecessary by the arrangement, which, as you are already aware, is in contemplation for stationing in New South Wales a Branch of the Ordnance Department to take charge of and superintend the Buildings belonging to the Military and Convict Departments. Upon this subject, however, I shall communicate with you more fully at some future period, in answer to your dispatch of 14 July last, and when the final arrangements upon this subject shall be matured.

Funds for immigration.

In conclusion, I have to observe that the information, which you have afforded as to the Funds available for the purposes of Emigration, is highly satisfactory, and I shall, in a separate dispatch, apprise you of the manner in which those Funds will be employed in furtherance of Emigration to the Colony during the present year.

I have, &c.,

ABERDEEN.

SIR RICHARD BOURKE TO RIGHT HON. T. SPRING RICE.

(Despatch No. 27, per ship Governor Harcourt.)

Sir,

Government House, 13 Feby., 1835.

Arrival of ship *David Scott* with female immigrants.

Since I had the honor of replying on the 18 September last to Mr. Secretary Stanley's Despatches of the 8th April, 1834, No. 73, and 23 May, 1834, No. 83, the *David Scott* has arrived in Port Jackson with 247 Female Emigrants. Some of these have proved highly respectable and the majority are generally allowed to have been better selected than on former occasions. But I have still to lament an admixture of many, whose characters if fully known would have prevented their passing the Committee. The Report current here is that about the time, at which the vessel was appointed to sail, the number of women required to freight the ship not being complete, the agent put on Board persons of a less respectable character than those first selected. The truth of this Report I have no means of ascertaining; but certain it is that about one sixth of the whole number consisted of low and profligate women, of whom the better characters on board complain most heavily.

Proportion of unsuitable immigrants.

I am sorry to have to state that the Committee do not seem to have been more fortunate in their choice of a Superintendent than formerly. The Ship presented a great scene of disorder and immorality, as I am informed, during the whole of the voyage. The Supt. blames the officers, and these the Superintendent. The indiscreet haste, with which Lt. Marshall on landing stigmatized the character of the whole body of female Emigrants under his charge, by which a prejudice was at first excited against them, has led me to form a very indifferent opinion of his prudence or fitness for such an appointment as he held on board the David Scott.

The subject of female Immigration has occasioned much discussion in the Colonial Press, and suggestions have been thrown out in favor of the appointment of individuals to proceed to England from this Colony to select the Emigrants, or the appointment of Agents in London, whose connexions and correspondence are such as to give them a personal interest in the Colony and knowledge of its wants,

It may be doubted whether the means of detecting imposition would be more at the command of these persons than of the present Emigration Committee, whose upright and benevolent intentions none can question. But I am nevertheless disposed to think it might be good policy to take some favorable opportunity of placing the selection of the Emigrants in the hands of persons likely to be recognized by the Colonists as acting peculiarly on their behalf. There is a jealousy excited on their part in viewing the appropriation of funds raised in the Colony by persons unconnected with themselves, which might be removed if the management were centred in New South Wales and those engaged in it open to their representations. Such representations might probably be then met by explanations more candidly received, and much of the evil, which is now attributed to negligence, might be clearly seen to be unavoidable. The subject will no doubt engage the attention of the Legislative Council at its Sessions in May next, when, if I find it desirable, I propose to appoint a Committee to consider and report upon it. In the mean time, I would recommend that Female Emigrants continue to be sent out as hitherto, but with as much additional care in selecting them as can be provided; and that an interval of six months be allowed between each departure from the U. Kingdom of a Ship with Female Emigrants to this Colony. This arrangement will give time to the Earlier Emigrants to find situations before they meet with competition from others newly arriving.

A good deal of disappointment has I think arisen both on the part of the Emigrants and the Colonists from the want of a

1835.
13 Feb.

Adverse
criticism of
superintendent.

Public
proposals *re*
selection of
immigrants.

Suggestions by
R. Bourke *re*
selection of
immigrants.

1835.
13 Feb.

Type of
immigrants
required and
not required.

correct understanding in England as to the persons in request here. The demand for Governesses is limited and may be easily over-supplied. Those, who can connect the rudiments of instruction with the care of children in a nursery, may find more frequent employment. Milliners and Dressmakers without funds are already too numerous, and there is hardly any demand for a description of upper female Servants, too refined for hard-work, and who are very often candidates for Emigration. Those women, who are willing to go into the country and understand the management of a dairy and the various female avocations about a farm, are the most wanted and would be most readily employed.

Demand for
building
mechanics.

Whilst on this topic, I beg leave to observe that Stonemasons, Bricklayers, Carpenters and Blacksmiths are still in great request, and that additional employment will be offered to these descriptions of workmen by the Public Buildings, which I stated in my Despatch of the 13th Jany. last No. 4, I proposed to undertake.

Funds available
for immigration
purposes.

In my Despatch of 18th September last, I stated the Balance of Revenue in hand, arising from Crown Lands, to amount on the 1st July last to £27,405 19s. 1½d. and held out an expectation of £15,000 more being received before the end of the year. This expectation has been more than realized. The available Balance on the 31st December last amounted to £42,653 6s. 8¼d.

Collection of
advances to
immigrants.

In accordance with the commands contained in the Despatch of the 23d May last, the Collector of Internal Revenue has proceeded to call for payment of the sums due in respect of advances to Emigrants now in the Colony. I regret, however, to state that the fears expressed in my Despatch on this subject were but too well founded. Out of 337 persons, the number to whom advances were made to 30 June last, only 21 have paid the instalment of £2 10s. which they have been required to settle without delay.

It will be necessary therefore to take legal measures with the remainder according to the instructions received; but I have again to repeat my apprehension that little will be recovered.

I am equally without hope of recovering payment of the majority of the promissory notes for £6 given by some of the Female Emigrants by the David Scott for advances, in addition to the Bounty paid on their behalf; but in this matter also I will be guided by the instructions contained in your Despatch of the 8th April.

Rent of
building for
accommodation
of immigrants.

It may be proper to mention that I have found it necessary to incur an expence for the accommodation on arrival of the Emigrants by the David Scott, which was not necessary while the

Lumber Yard was in the hands of the Government. A sum of £222 12s. 9d. has been expended in the rent of a large Building and fitting it up for their reception, besides the expence of rations and an allowance to the Superintendent and Porter. This expence will be necessarily repeated on every future occasion.

1835.
13 Feb.

Rent of building for accommodation of immigrants.

I have, &c.,

RICHD. BOURKE.

EARL OF ABERDEEN TO SIR RICHARD BOURKE.

(Despatch No. 24, per ship Marquis of Huntley.)

Sir,

Downing Street, 14 February, 1835.

14 Feb.

Having, in consequence of an interview which I had with the Directors of the Australian Agricultural Company on the Subject of the Convict Mechanics, for which Sir Edward Parry had applied for the Service of the Company at the Coal Mines, caused a copy of Mr. Spring Rice's dispatch to you of the 6th of Novr. last to be communicated to the Directors, I now transmit for your information the Extract of a further representation, which they have addressed to this Department complaining of the very small number of Convict Agricultural Labourers, which, as they allege, have been assigned to the Company during the last year, "whether the quantity of land they occupy, or the money laid out upon that land be considered."

Complaint by A.A. company re convicts assigned.

I refrain from conveying to you any specific Instructions in reference to this additional complaint on the part of the Company, under the full persuasion that you will not have denied to them any advantages in this particular, which the late Regulations for the stricter discipline of the Convicts, or the fair claims of other parties possessing Agricultural Establishments in the Colony, may have admitted of your bestowing; but, as the Directors have urged this topic with unusual earnestness upon my attention both at their Interview with me and in their present communication, I deem it proper to require from you a full Report in reference to the circumstances which they have stated, in order that His Majesty's Government may have such information at hand, should the subject be hereafter renewed on the part of the Directors, as shall enable me at once to decide how far the representations of the Company are well founded, and whether the facts of the case render it expedient for me, contrary to the usual practice, to interfere with the discretion, which it has been customary to leave to the local Government on matters of this nature.

Full report required from R. Bourke.

I have, &c.,

ABERDEEN.

[Enclosure.]

1835.
14 Feb.Complaint by
A.A. company
re supply of
convict
labourers.

EXTRACT of a letter from the Governor of the Aus. Agricultural Company to the Earl of Aberdeen, dated 10th Feby., 1835.

"THERE is one part of the Company's application, which the Directors, when they lately had the honor of an Interview with Lord Aberdeen, urged with particular anxiety, which is not at all noticed in Mr. Spring Rice's dispatch, namely, the very small supply of Labouring Convicts assigned to the Company during the last year. The supply of Convicts and of Mechanic Convicts for the Coal Works, and the general supply of Convicts for the Agricultural purposes of the Company are kept quite separate. The Directors apprehend that Mr. Spring Rice's dispatch refers solely to the former; but the Company has had great reason to complain of having had assigned to them, by the Local Government, a much smaller number of Convicts than they ought to have received, whether the quantity of Land they occupy or the money laid out upon that Land be considered. Of 5,020 Convicts, which the Government had to assign from the 1st May, 1832, to the 31st July, 1833, only 30 were assigned to the Company and of that number 17 were Boys; during this period, 77 of the Company's Convicts had qualified themselves for Tickets of Leave, so that, in the short space of 15 Months, the Convicts on the Company's Estate were reduced by the alarming number of 47, and 17 Boys were also substituted in the place of an equal number of men.

"The Directors beg to draw The Earl of Aberdeen's early attention to this most important point, for they are confident that, in whatever point of view the Company's Expenditure and quantity of occupied land is considered, the Company are entitled to a much larger portion of the Convicts annually sent out to Australia, than has lately been assigned to them.

"The Company's Flocks of Sheep are annually increasing, and they will want an annual increase of Convict Laborers; but, unless the present system is greatly changed, there will be an annual decrease similar to that which has taken place in the above period of 15 Months.

"The Directors have great confidence in the liberal consideration of the Earl of Aberdeen as expressed to them in their late conference at the Colonial Office."

SIR RICHARD BOURKE TO RIGHT HON. T. SPRING RICE.

(Despatch No. 28, per ship Roslyn Castle.)

Sir,

Government House, 15 Feby., 1835.

In attention to the Circular Despatch of the 24 March last, requiring information as to the mode in which Quarantine is administered in this Colony, I have the honor to transmit a Copy of the Act of Council in force on this subject. The power of imposing and regulating Quarantine is thereby vested in the Governor with the advice of the Executive Council, and a copy of the only Proclamation issued pursuant thereto, together with

15 Feb.

System of
quarantine
in colony.

a summary of Regulations drawn up for the use of Masters of Vessels required to perform Quarantine are transmitted herewith. The Proclamation was rescinded on the 1st July last, as no longer necessary; but the questions appended to the Summary are still put to the Masters of all Ships arriving, under the direction of the 4th Section of the act of Council.

1835.
15 Feb.

Rescission of
proclamation.

No fees whatever are chargeable either on ships, cargoes or Passengers, in respect of Quarantine performed here.

Absence
of fees *re*
quarantine.

No separate officer is here permanently appointed for superintending Quarantine. The ordinary duty of obtaining answers to the Questions is performed by the Pilot or Boarding officer, who receives no additional remuneration on account of it. When it is necessary to place a vessel under Quarantine, a Superintendent is appointed, whose Salary and all expences necessary on the occasion are provided for as in other cases of contingent Expenditure on the public service.

Administration
of quarantine.

I have, &c.,

RICHD. BOURKE.

[Enclosure No. 1.]

[*This was a copy of the act of council, 3 Gul. IV, No. 1.*]

[Enclosure No. 2.]

PROCLAMATION.

By His Excellency Major General Richard Bourke, Captain General and Governor in Chief of the Territory of New South Wales and its Dependencies, and Vice Admiral of the same, etc., etc., etc.

Proclamation of
regulations for
quarantine for
cholera of
vessels from
United
Kingdom.

WHEREAS, by an Act of the Governor, with the Advice of the Legislative Council, passed in the present Year of His Majesty's Reign, intituled "An Act for subjecting Vessels coming to New South Wales from certain places to the performance of Quarantine," it is amongst other things enacted, That as often as the Governor of New South Wales, with the advice of the Executive Council, shall, by proclamation, notify that any place or places beyond the seas is or are infected with the malignant cholera, or other infectious disease, and that it is probable such disease may be brought from such place or places to the said Colony, then and immediately from and after such notification all Ships and Vessels arriving from, or having touched at any such place or places, and all vessels and boats receiving any persons, goods, wares, merchandize, packets, letters, or any other article whatsoever, from or out of any Vessel so coming from or having touched at such infected place or places as aforesaid, shall be, and be considered to be, liable to quarantine within the meaning of the said recited Act.

And Whereas accounts have been received of a malignant and infectious disease, known by the name of the Cholera, having spread and extended itself to various parts of the United Kingdom of Great Britain and Ireland, and it is probable that the said Malignant Cholera may be brought to this Colony; Now I, the Governor

1835.
15 Feb.

Proclamation of
regulations for
quarantine for
cholera of
vessels from
United
Kingdom.

aforsaid, with the Advice of the Executive Council, do, by this my proclamation, declare and order that, for the greater security of the public health, all vessels arriving in Port Jackson from any part of the said United Kingdom, shall, until further orders, be subjected to the following regulations; that is to say, all Vessels on board of which the Cholera or other infectious disease shall have appeared during the last thirty days previous to their arrival shall be conducted by the Pilots to Spring Cove, where they are to remain in Quarantine according to the several provisions of the said recited Act, and to be subject to the several rules, regulations, and restrictions contained therein, or in any order or orders which shall or may be made by me, with the Advice of the Executive Council concerning quarantine and the prevention of infection. And all Vessels on board of which no disease has appeared during that period are to be brought up to Shark's Island, where they are to remain until the further orders of the Governor shall be given respecting them through the Officers of the Customs. And I do hereby strictly prohibit all persons, vessels, and boats from having any communication with any ship or vessel whilst under Quarantine or detained as aforsaid, or from going under any pretext whatsoever into Spring Cove, whilst any ship or Vessel is lying there with the Yellow flag flying, under pain of forfeiting the sum of Two hundred pounds, as prescribed by Law.

Given under my hand and Seal, at Government House, Sydney,
this fourteenth day of August, One thousand eight hundred
and thirty two.

RICHARD BOURKE.

By His Excellency's Command.

ALEXANDER M'LEAY.

[Enclosure No. 3.]

[*This was a printed copy of "Quarantine Regulations to be observed in the harbour of Port Jackson, New South Wales."*]

[Enclosure No. 4.]

[*This was a copy of the "Government Gazette," dated 9th July, 1834.*]

SIR RICHARD BOURKE TO RIGHT HON. T. SPRING RICE.

(Despatch No. 29, per ship Roslyn Castle; acknowledged by
lord Glenelg, 30th September, 1835.)

Sir, Government House, 16 Feby., 1835.

16 Feb.
Submission of
case for legal
opinion *re*
informality
in deeds of
land grants.

I lament to be obliged to bring under your notice, with a view to the advice of H.M.'s Law officers being obtained thereon, the case herewith transmitted. It has been drawn by Chief Justice Forbes at my request and relates to an informality in the Deeds, by which the lands of the Colony have been from time to time alienated by its successive Governors, the Deeds being in the name of the Governor, whereas the Instructions appear to have required them to be made in the name of the

King. The subject first engaged my attention on being informed of certain measures, which had been adopted in V. D.'s Land to remedy a similar informality. As the case has been fully entered into by Mr. Forbes, it is needless for me to add anything to a statement illustrated by his distinguished learning and ability. I will only venture to Express an earnest hope that, if the informality should be considered fatal to the legal Title of the parties claiming under the Grants in question, some measure may be adopted, which shall render them valid without resorting to the reissue of Deeds, which is understood to have taken place in V. D. Land.

1835.
16 Feb.

Necessity
for validating
land titles.

The number already issued in this Colony amounts as nearly as can be ascertained to 7,939, which would be incalculably augmented by subdivision of property in the event of fresh grants being made to all those, who now have equitable claims under them.

Number of
deeds involved.

A great many more must also be issued before an answer can be received to this application, as the proceedings of the Commissioners for reporting on Titles to Grants of Land under the act of the Govr. and Council of 4 Wm. IV, No. 9, are now in full operation. It would be highly inexpedient to restrain the issue of these grants, or to alter the form now adopted, lest a general distrust in the Titles, under which Land is held from the Crown, should be thereby excited. Before anything occurs to bring the matter into public notice, I hope such measures may be adopted or authorised as shall set it for ever at rest.

Deeds issued
under court
of claims.

I have, &c.,

RICHD. BOURKE.

[Enclosure.]

CASE.

By Act of Parliament, 24 Geo. 3rd, Cap. 56, His Majesty was empowered to appoint places beyond the seas to which offenders, under sentence of Transportation, should be transported, and, in pursuance of such power, His Majesty, by two orders in Council, bearing date respectively the 6th of December, 1786, was pleased to appoint the place to which such offenders should be sent to be the Eastern Coast of New South Wales. The Act, 27 Geo. 3, cap. 27, reciting the orders in Council and that it might be necessary to establish "a Colony and a Civil Government in such place as aforesaid," enabled His Majesty to institute a Court of Criminal Jurisdiction in New South Wales. Since the establishment of the Colony, a large portion of the waste lands have been settled, and the Crown, in virtue of the Royal Prerogative, has authorised the Governors to grant lands under the public Seal of the Colony.* The Commissions of successive Governors contain these words, "We do hereby give and grant unto you full power and authority to agree for such lands,

Case submitted
by F. Forbes re
informality in
deeds for land
grants.

* Marginal note.—1 Bl. Com. 107; 2 P. Wms. 75; Pen. Ld. Balt.; 1 Ves. Senr. 452; 5 Geo. 4, c. 86, in the preamble.

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16 Feb.

Case submitted
by F. Forbes *re*
informality in
deeds for land
grants.

etc., as shall be in our power to dispose of, and them to grant to such persons, upon such terms and under such moderate quit rents. etc., according to such instructions as shall be given to you, under our sign manual, which said grants are to pass and be sealed by our Seal of our said Territory, and, being entered upon record by such officer as you shall appoint, shall be good, and effectual in the law against us, our heirs and successors"; and the Instructions issued from time to time under the Royal Sign Manual directed the Governors to "take care that all grants to be given of land in our said Continent or Islands be made out in due form," and that "every such grant shall pass in our name under the great seal of New South Wales." Under the powers thus conveyed, the Governors of New South Wales have granted the lands of the Colony to the Inhabitants, and such Grants have been in the name not of the King, but of the Governor for the time being under the public seal of the Government. It is unnecessary to observe that such grants are not according to the legal form and manner of Executing grants from the Crown in England, nor, as it would seem, in conformity with the intention of the Royal Commission and instructions to the Governor. There is no local law on the subject. The Legislature of the Colony is composed of the Governor and fourteen members of Council, who are empowered by Act of Parliament 9 Geo. 4, cap. 83, sectn. 20, and seq., to make laws "for the peace, welfare, and good government of the Colony, such laws not being repugnant to the laws of England." No question has yet been raised in the Colonial Courts as to the legal validity of the Grants of land issued by the several Governors; but, from the rapid advancement of the Colony and the increasing value of lands, it is probable that such questions will be raised, and ultimately appealed to His Majesty in Council, and, as there is no local Enactment relating to Grants of land from the Crown, the law of England would upon general principles become the only guide for the Courts, 1 Bl. Com 107; besides which, the Statute already referred to, 9 Geo. 3, cap. 83, sectn. 24, expressly directs "that all the laws and statutes in force in England at the passing of the Act (not being inconsistent with such act, or any Charter or order in Council issued under it) shall be applied in the Administration of Justice in the Courts of New South Wales, so far as the same can be applied"; and there is no apparent reason why Grants of Land in New South Wales should not have been made in the name of the King instead of the name of the Governor.*

Under all the circumstances, it is desirable that a matter of so much importance should be settled by law; and with that view, it is proposed that the following questions Should be submitted to His Majesty's Government for the opinion of His Majesty's Law Officers in England.

First, Are the Grants of Land executed in the name of the Governor and not of the King, under the circumstances before stated, valid in law?

Second. Assuming that such Grants are not valid, has the local Legislature the power to pass a law to render them valid and sufficient† for all purposes whatever, and to give them retrospective operation?

* *Marginal note.*—G. Coke 76; Moor 70, pl. 191.

† *Marginal note.*—See an Act of the Legislature of Jamaica 2 Ann, chap. 7, Sectn. 2.

Third. If such Grants be not valid, and the local Legislature have not power to render them valid, will it not be necessary to have recourse for such purpose to Parliament? It may be observed that it would be almost impossible, and certainly attended with great difficulty, to call in all the irregular Grants, and issue others to the parties, independently of the effect which such a proceeding would have upon the rights of persons, derived under the original grantees and their representatives.

FRANCIS FORBES,
Ch. Justice, New South Wales.

1835.
16 Feb.

Case submitted by F. Forbes re informality in deeds for land grants.

EARL OF ABERDEEN TO SIR RICHARD BOURKE.

(Despatch No. 25, per ship) Westmoreland.)

Sir, Downing Street, 17 February, 1835.

17 Feb.

I have the honour to transmit to you herewith Copies of a Correspondence, which has taken place between my Under Secretary and the Chairman of the Committee by whom the Female Emigrants have been selected and despatched to the Australian Colonies. The first of these letters takes a retrospective view of the proceedings of the Committee during the past year, and contains such suggestions as they have offered for my consideration with a view to the improvement of the System of female Emigration, together with a renewed offer of their Services during the present Year. The remainder of this correspondence gives the detail of the measures which will be adopted.

Transmission of correspondence with chairman of emigration committee.

The System, hitherto acted upon, of providing a portion only of the expense of the passage, and requiring each Female to find the remainder, either by the payment of £5 on embarking, or giving a promissory Note for the payment of £6 on her arrival in the Colony, has for the reasons stated by the Committee been superseded, and another arrangement substituted, by which the whole of the expense of the passage will be defrayed at the cost of the Public in the following proportion, vizt.:—*nine* pounds for each Emigrant on the departure of the vessel from this Country, and *eight* pounds on the arrival of the Ship in the Colony, either in Specie or Treasury Bills at the option of the Governor, according to the arrangement which, as you were informed in my Despatch of the 20th December, 1834, would in future be made upon that subject with the Owners of Vessels engaged to convey Emigrants to the Colonies.

Alteration in system of financing immigrants.

In your Despatch No. 61 of the 8th of July, 1834, is enclosed an Abstract of the Revenue arising from Crown Lands in the Colony of New South Wales, and of its appropriation to purposes of Emigration during the Year 1833; from which it appears that

1835.
17 Feb.
Funds available
for immigration
purposes.

the Sum available for that Year amounted to £26,272, whilst the disbursements did not exceed £9,039. To the latter Sum, however, must be added the Bounties, amounting to £2,808, on account of the Females on board the "Layton," which vessel could not have arrived at Sydney until after the close of 1833. The account therefore will Stand as follows:—

Balance in Colonial Treasury on 1st Jany., 1834 ..	£14,424
Estimated Sales of Land for 1834 and 1835 ..	20,000
	<hr/>
	£34,424
Loans to Labourers	£1,160
Bounties to Females	6,564
Loans to Females	2,445
	<hr/>
Total Expenditure in 1834	£10,169

Balance on 1st Jany., 1835 £24,255

Ships to
sail with
immigrants.

I have further to acquaint you that three Ships, with about 200 Young Women in each, will be despatched to New South Wales during the present year, the first of which will leave England on the 30th of April; and the periods fixed for the departure of the other two will be about the 10th of August and the 28th of October respectively. And, with reference to my Predecessor's Despatch of the 10th of September, 1834, I request that all necessary arrangements may be made for Securing to the Young Women, who may arrive by these successive opportunities, every possible comfort and accommodation from the period at which they may arrive in the Colony, until that at which they may succeed in obtaining suitable Situations.

Appointment of
J. D. Pincock
to supervise
applicants
for bounties.

Before concluding this Despatch, I have to observe that, in consequence of the recommendation contained in your Despatch of the 21st of Jany., 1834, that an Officer should be specially appointed for the purpose of scrutinizing all applications from Emigrants for Loans or Bounties before any such assistance is granted, it has been determined to give effect to your wishes in this particular; and I have accordingly selected Mr. James Denham Pincock (a Gentleman who for some time past has been attached to the Emigration business of this office) for the situation in question at a yearly Salary of £200, commencing from the 1st of January in this year. And as it has been deemed expedient that the Remuneration to be received by this officer should be charged upon the Colonial Funds, I have directed Mr. Barnard (the Colonial Agent) to issue to Mr. Pincock a Salary at the above mentioned rate.

I have further to acquaint you that the Services of Mr. Pinnock will be equally available in the case of the Emigrants who may proceed to Van Diemen's Land; and it is therefore proposed that the Salary, before mentioned, should be borne in equal proportions by the two Colonies.

1835.
17 Feb.

I have, &c.,

ABERDEEN.

[Enclosure No. 1.]

MR. E. FORSTER TO UNDER SECRETARY HAY.

Sir, Emigration Committee Room, 30 December, 1834.

The Emigration Committee, having during the past year effected, to the best of their power, the objects which they were instructed by H.M. Secretary of State for the Colonies to superintend, consider it their duty to make a detailed report to you of their proceedings, and to offer such suggestions as the experience they have now acquired in Conducting Female Emigration to the Australian Colonies may enable them to submit.

Report by
emigration
committee.

The Committee have, as their reports on the departure of each Ship have already made known to you, sent out three Ships during the present year, viz., the *Strathfieldsaye* from hence to Van Diemen's Land which sailed on the 1st May; the *David Scott* for Sydney which sailed on the 10th July; and the *Sarah* for Van Diemen's Land, which proceeded on the 16th October. In addition to these ships, the Committee have taken up, equipped, and dispatched the Ship *Duchess of Northumberland* of 550 tons for Dublin and Cork, whence she sailed with Female Emigrants on the 20th October; but, as this latter vessel was, as regards the selection of the Emigrants who proceeded by her, entirely under the direction of the Irish Government and of Mr. Pinnock, sent from your department to superintendent the business in Ireland, the Committee confine their report to the three ships first enumerated.

Ships sent in
1834 with
female
immigrants.

The number of Individuals sent out in each ship were as follows:—

Immigrants
per ship
Strathfieldsaye :

Strathfieldsaye of 470 tons register—

1. Females on whose behalf the bounty of £12 each was allowed towards their passage	256
2. Females either married or above the age of 30 and therefore paying their passage themselves	14
3. Female children under 15 years of age	18
4. Male do. do.	18
5. Married Men accompanying their families	3

309

The average age of the Females by this Ship, who partook of the Government aid of £12 each, was $20\frac{2}{3}\frac{5}{8}$ years.

David Scott of 778 tons register—

1st Class	247
2 do.	26
3 do.	32
4 do.	35
5 do.	16

and ship
David Scott,

356

The average age of the Females by this Ship, who partook of the Government aid of £12 each towards their passage, was $20\frac{7}{11}\frac{6}{7}$ years.

1835. 17 Feb.	<i>Sarah</i> of 488 tons register—		
Immigrants per ship <i>Sarah</i> .	1st Class	.....	115
	2 do.	.....	21
	3 do.	.....	21
	4 do.	.....	18
	5 do.	.....	21

196

The average age of the Females by this ship, who partook of the Government aid of £12 each towards their passage was 20 $\frac{11}{13}$ years; making in the aggregate sent out in the three ships above named of—

1st Class	.....	618
2 do.	.....	61
3 do.	.....	71
4 do.	.....	71
5 do.	.....	40

Grand Total 861

Principles of
committee in
selection of
immigrants.

In the execution of the delicate and onerous duties which devolved upon them, the Emigration Committee have been fully alive to their highly important nature, and to the serious responsibility resting on them. They have strongly felt that, as respects the Colonists, among whom the grievous disparity between the Sexes and the state of morals obviously arising from such a state of society, render the accession of females of virtuous and industrious habits in the highest degree essential, they owed the utmost care and caution in sanctioning and aiding the transit of such Females only, as were likely to become really useful. The Committee have also carefully kept in view the objects which His Majesty's Government wished to accomplish, by confining the aid thus placed under their management to the class of Individuals just mentioned; and they have anxiously endeavoured to guard against the admission of improper subjects by previous personal enquiry in all cases within a reasonable distance; and, in the case of persons living remote from London, they have uniformly required certificate of a resident minister or of some person of known reputation to whom the applicant may be known; and, so far as human care and caution can guard against the intrusion of persons of even doubtful character, it has been the anxious care of the Committee to do so. Still they do not mean to assert that cases of deception, in despite of their utmost caution, have not occurred; but they are the exceptions not the rule, and it cannot but be obvious to every dispassionate person, that it is impossible so to guard the admission of Candidates for Emigration, that the Conduct of some of them during a long voyage under the most satisfactory arrangements, and a discipline necessarily imperfect, shall not occasionally be exceptionable; and that, on reaching the Colonies, where circumstances so totally different and temptations by no means inconsiderable await them, a few may not be found altogether undeserving of the bounty which has been bestowed upon them. On the other hand, it is equally certain that many, who go out with extravagant not to say romantic expectations, must in the first instance be disappointed, and will probably send home accounts under these feelings which their more sober judgement and subsequent experience would condemn.

In the progress of the important work they had undertaken, the Committee saw with gratification that a growing confidence was apparent on the part of that class of Females in particular, whose Emigration either with reference to the objects of His Majesty's Government or their own welfare after their arrival, it was most desirable to encourage, viz.: healthy, moral, and industrious country servants. Prior to the despatch of the last ship, the Committee had reason beyond all former experience to calculate, from the numerous applications they received, on filling that vessel *almost entirely* with Individuals of this class; but, in consequence of certain statements published in the public papers, received, the Committee presume, either from those whose conduct had been blameable or whose expectations had been extravagant and illjudged, apprehensions were excited in the minds of those upon whose fears it is so easy to operate; and the Committee had the pain to find that numbers, who had expressed their desire to emigrate, subsequently withdrew.

1835.
17 Feb.

Increase in number of applications.

Withdrawal of intending immigrants through false reports.

A reply to these Statements, furnishing facts which could not be controverted, removed to some extent those fears; still the Committee found it impracticable to engage the number of proper Females which that ship could have accommodated; and in consequence, she sailed largely deficient in the number she was fitted to convey, and the agent of the Committee experienced some loss, he having in a very handsome manner declined the offer of the Committee to bring the special circumstances of the case under the consideration of your department with a view to Compensation.

It is however satisfactory to the Committee to add that many, who declined to emigrate in that vessel, have since expressed their wish to proceed next year, should the reports, which may be received from the Colonies respecting the Females who have already been sent out, be so favorable as to satisfy their reasonable hopes and expectations.

Renewal of applications.

In the selection of suitable ships for the conveyance of the Emigrants, in their equipment and provisioning, and in ascertaining the character, competency, and fitness of the Commander, Surgeon, and officers, the most anxious care has been exercised to promote the comfort and best interests of the Emigrants.

Selection of ships and officers.

In the case of the Layton however, as already stated to you, the Committee have to regret that the result did not fulfill their just expectations; and, to an unfortunate difference between the Superintendent and Surgeon, the Committee attribute, in a great degree, the unsatisfactory state in which some of the females by that ship arrived.

In consequence of this occurrence, the Committee have thought it right to attach a pecuniary recompense* for the proper discharge of the duties devolving on the Superintendants; and they look for increased efficiency on the part of the persons thus appointed, from the payment of the gratuity being entirely dependant on the Governor's approbation of their Conduct during the Voyage.

Gratuity for superintendents.

The Committee, having also found that a portion of the inconvenience, which has been complained of, arose from many of the Emigrants not having the means to procure the required outfit for so long a voyage, sanctioned their agents supplying the deficient articles at wholesale prices, the same to be issued by the Wife of the Superintendent on board, and made up during the passage; the

Outfit for immigrants.

* Note 164.

1835.
17 Feb.

Punctuality
in sailing of
ships.

agent taking the notes of the parties for the payment of the cost of the supplies in the Colonies; much of which, however, the Committee apprehend he will be unable to collect.

The Committee have been strongly impressed with the indispensable necessity of punctuality in the departure of the Vessels; and they have the satisfaction to state that, in every case, the day fixed for the sailing of each ship having been publicly announced from two to three months beforehand, the Embarkations have invariably taken place on the days stated, and the Vessels have immediately proceeded on their Voyage, thereby securing the Emigrants from Expense arising from delay, and enabling them to make the arrangements for their departure with certainty; and the Committee find the performance of their duties essentially facilitated by the Confidence they have thus inspired.

Care of
immigrants
in London.

The females, who have had no friends in London, and to whom some days' residence in the Metropolis was necessary to complete their preparations for so long a voyage, have been received and protected until the day of embarkation, on a plan approved by the Committee and satisfactory to the Emigrants.

Having thus briefly adverted to all which appears essential with retrospective reference to the service in which they have been engaged, they beg leave to submit to you, for the information and consideration of the Secretary of State, the following suggestions with respect to Female Emigration prospectively.

Objections to
promissory
notes by female
immigrants.

First. Although the Committee have found some facility from the plan, which, at their suggestion, the Secretary of State was pleased to sanction, of taking the promissory notes of the Females for the difference between the Bounty of £12 per head (granted by the Colonial Department towards their passage) and the actual cost thereof, yet in practice it has not been found to work so well as they had reason to expect; the Committee have found, in numerous instances, much reluctance on the part of respectable women and their connections to come under a liability for their passage, payable in the Colony.

Many of them cannot be disabused of the idea that they thus expose themselves to coercion, and to a state of compulsory service until the stipulated payment has been made; and the number is by no means inconsiderable, who think they would be placed in what they term slavery, and deprived entirely of their free agency whilst the debt is uncanceled; and, although in such cases the parties have been reasoned with in order to remove an impression so entirely groundless, yet such is the peculiar feeling and apprehension on this point that many have relinquished the *desire* of emigrating altogether; and the circle of Candidates, from which the Committee are enabled to select proper Individuals, has thus been materially curtailed.

Evasion of
payment of
promissory
notes.

Another ground for changing the practice is that the Committee have reason to believe that the parties giving these notes in most instances become distributed in service throughout the territory, many get married, and the authorities lose sight of them; and there are not wanting various ways of evading the payment in a Colony, where the population is extensively scattered over the surface of the Country, as it must be necessarily be in New South Wales, and that in fact the actual payments are likely to be extremely inconsiderable, while the irritation of feeling, created by any legal attempt to obtain payment, must give rise to many complaints; that which is in reality a just obligation, and which should,

as the parties acquire the means, be honestly paid, is represented as a claim of an unkind and harsh nature, and the exaction of it openly denounced. The representations too, which young women thus circumstanced and unduly influenced in the Colonies make in their letters to their friends in this country, are actively promulgated; misrepresentation is soon at work to give an unfavorable colouring to the nature of the demand; and its operation is found to act unfavorably on the minds of candidates whose Emigration is most to be desired.

1835.
17 Feb.

It is under these circumstances that the Committee earnestly submit the propriety of granting a *free passage* in future to all such Females between the ages of 15 and 30 as shall be ascertained to be proper objects for emigration to the Australian Colonies.

Proposal to grant free passages.

Secondly. The Committee are anxious to draw the marked attention of the Secretary of State to the mode of receiving, protecting and placing the females, who encounter a protracted voyage in the expectation of bettering their condition in another hemisphere. It must be obvious that it is of the greatest importance that they should receive, immediately on their arrival in the Colony, careful protection, aid and advice, until they can be placed in situations where their feelings will be as little wounded as possible, and in which they can maintain themselves by the honest exercise of their industry. With reference to this point the Committee have had, as they have already felt it their duty to submit to you, reason to apprehend that the Females, who have proceeded to Sydney, have been disappointed in their reception, and in the protection and care for their future welfare, which the Committee (in Consequence of the understanding under which they have acted on behalf of the Colonial Department) assured them they might fully reckon upon. In consequence, Considerable prejudice respecting Female Emigration has ensued. The Committee would not enter into the question of how far this may have been occasioned by the Conduct of some of the females themselves; but they submit that, until the public mind shall be re-assured by intelligence of a different mode of receiving and treating these Females, many of the most desirable class of emigrants will be deterr'd from embracing the advantages, which a system of well conducted Emigration cannot, in the opinion of the Committee, fail to obtain for them. With a view to an immediate and practical remedy, the Committee would suggest the propriety of sending Instructions to the Colonies that a House should be prepared at each for the reception of at least 150 young women, who on arrival should be placed under the care of a respectable man and his wife as Housekeepers, and where Ladies of respectability wanting Servants or otherwise might, with satisfaction to themselves, repair. The expence of such an Establishment, including a moderate Salary to a Housekeeper and his Wife, the Committee apprehend would not exceed £500 per annum; and the Committee submit that such an expence being for the advantage of the Colony might with propriety be charged to the Emigration fund.

Suggestions re reception of female immigrants on arrival in colony.

House proposed for reception of immigrants.

With the same object in view the Committee would also suggest that a Person of education should be appointed (with a fair remuneration for his services) as a Superintendant of Emigration in each Colony. He should be required to keep a register of all persons wanting Servants, and of all other demands for Female Employments, to acquaint himself as much as possible with the character

Proposed superintendent of immigration in colony.

1835.
17 Feb.

Proposed
duties of
superintendent.

of the parties applying, and to co-operate with the local authorities and Ladies' Committees in the furtherance of all which can conduce to the wellbeing of the Emigrants. He should also keep a register of the location of every Emigrant, and watch over them, transmitting from time to time, at stated periods, lists of every Female Emigrant, shewing with whom and where she is located, the remuneration she receives, the description of employment, when and to whom married, and the occupation and apparent situation of the person she marries; and generally all such information as will be interesting to the friends of the Emigrants and to the public at large; and he should transmit, as often as circumstances will admit, all such information and suggestions, as experience might enable him to offer in furtherance of this object. An intelligent agent of this description might also from time to time ascertain the demand for Labour generally throughout the different districts of the Colony, and the remuneration given for it, together with the kind most in demand so as to be able to direct an Emigrant, immediately upon his landing, where he would obtain employment, and also transmit this information to the Home Government by an annual report or otherwise, stating at the same time the price of provisions in the Colony, and any other matter useful in promoting the general object of Emigration.

If the Salary of such an Officer as is here alluded to be payable by the Colony, surely it would be more than counterbalanced by the benefits which must necessarily arise to the best interests of the Colony from his important services.

Proposed
maximum
number of
immigrants
per ship.

Thirdly. The Committee would recommend that the maximum number of Females, who may hereafter emigrate under their auspices, should be 150 or thereabouts in each ship. This number would not press inconveniently on the demand for servants and other Female Employments at the moment of their arrival; there would be less difficulty in lodging and taking care of them until placed in situations; and in various points of view it would contribute to the great object which should ever be the leading Consideration of all concerned in Female Emigration, viz., the proper protection, comfort and permanent welfare of every individual, who is induced to quit their country, to become Members of a distant community.

Proposal for
married persons
in each ship.

Fourthly. The Committee would recommend that in every Ship there should be, as in recent instances, some married agricultural families of industrious and sound character, and they would submit whether some limited pecuniary assistance might not be given in cases of this sort, particularly when the majority of the children are females. The Committee have found that families of this description exercise an important check on the entire society on board ship, and essentially promote regularity, harmony and propriety. Whilst Parents watch over the minds and conduct of their own families, the moral influence extends far beyond the immediate objects of their Solicitude and care. It must, however, be understood that the admission of such married persons is limited to those only the Committee may ascertain to be of unexceptionable character, and whose general conduct and circumstances afford a reasonable guarantee of usefulness as well on board the ship as in the Colonies.

In expressing their willingness to undertake, in the ensuing year, the task of gratuitously superintending the Emigration of Females to the Australian Colonies, the Committee have to express to you their deep sense of the zealous and indefatigable exertions of their agent, Mr. John Marshall, who has devoted himself to the work with an energy, perseverance and integrity, which has left the Committee nothing to desire, and which they have no doubt will be rewarded by the approbation of His Majesty's Government.

1835.
17 Feb.
—
Testimony to
services of
J. Marshall.

By order,

EDWARD FORSTER,
Chairman of the Emigration Committee.

[Enclosure No. 2.]

UNDER SECRETARY HAY TO MR. E. FORSTER.

Sir, Downing Street, 16 January, 1835.

I have received and laid before the Earl of Aberdeen your letter of the 31 Ultò, transmitting a report of the proceedings of the Emigration Committee during the past year; and I am directed by His Lordship to transmit to you the following reply.

Report
acknowledged.

The Secretary of State desires me to express the high sense which he entertains of the very valuable and useful services of the Gentlemen Composing the Emigration Committee, and his satisfaction at hearing that they are disposed to carry into effect the views of His Majesty's Government with regard to Female Emigration during the present year, with the same zeal and disinterested spirit which has hitherto induced them to undertake so important an object. It must be a gratifying reflection to the Committee that they have been instrumental in introducing into the Australian Colonies so large a number of females, whose previous moral and industrious habits will, it is to be hoped, effect a great improvement in the Social condition of the Inhabitants of those Provinces; and Lord Aberdeen Confidently trusts that, thro' the future exertions of the Committee, those Colonies will be still further benefitted by the arrival and distribution throughout the territory of an additional number of Emigrants of this description.

Approval of
services of
committee;

The Report, made by the Committee of the manner in which Mr. Marshall has performed the very responsible duties entrusted to him, is most satisfactory to the Secretary of State; and more especially when it is considered that that statement is made by Parties so well qualified, as the Committee must necessarily be, to form a Judgement of that Gentleman's conduct.

and of
J. Marshall.

Lord Aberdeen is disposed to avail himself of such of the Committee's Suggestions for the improvement of female Emigration as appear to be practicable at the present moment; and accordingly will lose no time in proposing to the Treasury that the Bounty shall be so far extended as to enable the Females to proceed to their destination, without the necessity of applying for a Loan.

Free passages
proposed for
female
immigrants.

Having thus settled the means of conveyance to the Colony, the point next in importance is to provide for their reception and safe custody of the Females on their arrival there. The remarks of the Committee on this subject have not escaped Lord Aberdeen's attention, and his Lordship has directed me to transmit, for your information, an extract of a Despatch* addressed by His Predecessor to General Bourke which His Lordship can have no doubt will have the desired effect.

Reception of
immigrants
in colony.

* Note 165.

1835.
17 Feb.

Want of
necessity for
agents in
colony.

Reduction
in number of
immigrants
per ship.

Vessel to be
chartered by
committee.

Periods to be
selected for
despatch of
vessels.

With regard to the appointment of Agents in New South Wales and Van Diemen's Land, as suggested by the Committee, the Secretary of State conceives such officers to be scarcely required. I may observe, however, that the Governors of the Two Provinces have already been instructed to depute to some official Persons, who may have leisure for such duty, the task of superintending the females on their arrival, and of taking care that they are properly disposed in the Colony.

The last point, referred to in the Report upon which it is necessary for me to offer any observation, is their proposition for reducing the number of females emigrating in each ship from 250 to 200. As a diminution in the number of females, who have been hitherto sent in one vessel, cannot fail to render their reception in the Colony more easy as well as the task of management on board ship, Lord Aberdeen is quite prepared to accede to this proposal; as far at least as reducing the number of females in any one ship from 250 to 200. In furtherance therefore of this arrangement, his Lordship is disposed to recommend that, instead of despatching four ships with 250 Emigrants in each, as was the case last year, there should be *five* sent during the present year; four to sail from the Port of London with 200 Emigrants in each, and the remaining vessel from Ireland and Scotland with 200 also. The Secretary of State would further suggest that the chartering and equipment of the last mentioned vessel should be undertaken by the Committee, as was the case with the "Duchess of Northumberland," which sailed from Ireland during the past year; but that the selection of the Emigrants should be confided to Branch Committees from the London Committee, if such an arrangement could be brought about.

Having touched upon all the essential points to which the Committee have adverted in their report, it only remains for me to request that you will be so good as to acquaint me, for the information of the Secretary of State, at what periods the Committee are disposed to recommend that Ships should be taken up and dispatched with female Emigrants to the Australian Colonies during the present year.

I am, &c.,

R. W. HAY.

[Enclosure No. 3.]

MR. E. FORSTER TO UNDER SECRETARY HAY.

Emigration Committee Room,

26 Birchin Lane, 24 January, 1835.

Sir,

Letter
acknowledged.

I have laid before the Emigration Committee your letter of the 16 Ins., conveying to them Lord Aberdeen's approval and adoption of the views conveyed in their annual report of the 30 ulto., and it is gratifying to the Committee to receive the expression of his Lordship's satisfaction with their past labours in discharging the important duties confided to them by His Majesty's Government.

Periods and
ports for
despatch of
vessels.

In answer to your request to be informed at what periods the Committee would recommend that the Ships directed by the Secretary of State to be sent by the Committee to the Australian Colonies during the present year should respectively sail, I am respectfully to submit that, of the five ships directed by Lord Aberdeen to be despatched with about 200 females each, the Committee consider that *three* from the port of London will be preferable to four, and that they should sail from Gravesend as follows, viz., the first for Sydney on the 30th April, the second for Hobart Town on the 9th July,

and the third for the same destination on the 1st October; and that the remaining two should proceed to Sydney, one from Scotland on the 10th August, and the other from Ireland on the 28 October, provided that in the meantime the Committee shall be assured that the required number of proper Females can be confidently relied upon; by this arrangement, the Committee are of opinion the views of the Secretary of State will be best effected.

1835.
17 Feb.

The Committee having requested Mr. Marshall to submit to them in writing the terms on which he would undertake to accomplish prospectively, under the direction and sanction of the Committee, as heretofore, the objects with which they are charged, have received from that Gentleman the renewed offer of his services on the same terms as last year, which they have considered it for the advantage of the service to accept and act upon, convinced from experience that the various duties incumbent upon him cannot be more efficiently and satisfactorily performed, and I am instructed to transmit to you enclosed a Copy of Mr. Marshall's letter, as accepted by the Committee, for the information and approval of the Secretary of State.

Agreement with
J. Marshall to
be renewed.

I have, &c.,

EDWARD FORSTER, Chairman.

[Enclosure No. 4.]

UNDER SECRETARY HAY TO MR. E. FORSTER.

Sir,

Downing Street, 28 January, 1835.

I have received and laid before the Earl of Aberdeen your letter of the 24 Instant, acquainting me with the respective periods at which the Emigration Committee are disposed to recommend that Ships should be despatched with Female Emigrants to the Australian Colonies during the present year; together with their proposition that three vessels instead of four should be sent from London, and the remaining two from Scotland and Ireland respectively, provided the Committee may previously ascertain that a sufficient number of Emigrants can be collected in each of those countries to fill a ship; and I am directed by His Lordship to convey to you his consent to such an arrangement.

Approval of
proposals of
committee.

With reference to my letter to you of the 16th Instant, acquainting you that the Secretary of State had directed a Communication to be addressed to the Treasury on the proposal of the Committee to afford an entirely free passage to females emigrating under their auspices, I have now to inform you that an answer has been received, conveying the sanction of their Lordships to the adoption of the proposed arrangements. It will therefore be understood that a free passage will be granted to all females who may in future emigrate under the superintendance of the Emigration Committee, £9 of which will be paid on their departure from this country, and the remaining £8 on their arrival in the Colony, either in specie or Treasury Bills at the option of the Governor.

Free passages
to be granted
to female
immigrants.

In conclusion I have only to express to you the Confidence with which the Secretary of State relies on the arrangements which the Emigration Committee may decide on adopting, in furtherance of the important service which they have undertaken.

I have, &c.,

R. W. HAY.

SIR RICHARD BOURKE TO RIGHT HON. T. SPRING RICE.

1835.
17 Feb.(Despatch No. 30, per ship Roslyn Castle; acknowledged by
lord Glenelg, 12th August, 1835.)

Sir, Government House, 17 Feby., 1835.

Transmission of
memorial from
E. H. Cliffe.

In attention to the Instruction, by which I am desired to forward communications from the Colonists addressed to the Secretary of State, I have the honor to transmit a Memorial from Mr. Edmund Harrison Cliffe praying for a grant of land under the Regulations in force in the year 1830, on the ground of the steps then and afterwards taken by him on the faith of those Regulations towards settling in this Colony.

I have, &c.,

RICHD. BOURKE.

[Enclosure.]

Memorial of
E. H. Cliffe.

THE humble Memorial of Edmund Harrison Cliffe, of Chouder Bay, in the Colony of New South Wales, Gentleman,
To His Majesty's Principal Secretary of State for the Colonial Department

Humbly Sheweth,

Arrival
in colony.

1. That Your Memorialist first arrived in this Colony in the Year 1818, as Chief Officer of a Ship trading between the East Indies and Port Jackson; in which capacity he performed six successive voyages between those countries.

Intentions
to settle.

2. That, in the Year 1821, Your Memorialist made up his mind to settle permanently in this Colony as soon as circumstances would permit; and with that view, he in the same Year purchased three hundred (300) sheep, depasturing them, *ad interim*, under the care of an agent, and in the Year following was married to a lady who emigrated to the Colony in the Year 1818.

3. That, in the Year 1830, Your Memorialist imported from the Mauritius a cargo of Sugar, by a Vessel which he had chartered for the purpose, the entire proceeds of which cargo he intended to invest thereafter in his adopted country.

Application
for land grant.

4. That, on the 3rd of June in that Year, Your Memorialist applied to His Excellency Lieutenant General Darling, then Governor in Chief of the Colony, for a Grant of land proportioned to his available capital, under the Regulations at that time in force.

5. That, in reply to the said application, Your Memorialist received from the Honourable the Colonial Secretary a Letter dated 5th June, 1830, informing Your Memorialist, by the Governor's command, that his application had been referred to the Land Board, before whom he was to hold himself in readiness to appear, with the necessary proofs of the actual amount of his capital, which was then available in this Colony for agricultural purposes, according to the Regulations at that time existing. *Vide Appendix A.*

6. That in pursuance of the said reference from His Excellency the Governor, Your Memorialist received from the Land Board a Letter, dated 8th June, 1830, requesting his attendance at their Office with the necessary documents, to shew the amount of his Capital, and to give the names and procure the attendance of one or two persons of known respectability, who could vouch for the amount of Capital which he had at his immediate command. *Vide Appendix B.*

7. That Your Memorialist appeared before the Land Board accordingly, accompanied by Richard Jones, Esquire, a member of the Legislative Council, and William Walker, Esquire, a Justice of the Peace, both eminent merchants of Sydney, by whose evidence he proved, to the entire satisfaction of the Board, that his available Capital, including Cash, purchased landed property and twelve hundred and thirty (1,230) Sheep, then amounted to the sum of Five thousand Pounds (£5,000).

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17 Feb.

8. That, shortly after this interview with the Land Board, Your Memorialist received from the Honorable the Colonial Secretary a Letter dated 10th July, 1830, informing Your Memorialist, by the Governor's command, that, as from the Report of the Board it appeared that Your Memorialist had in contemplation an early voyage to England, he could not be permitted *at present* to receive land, consistently with the Regulations, which rendered the execution of a Bond for three Years' residence in the Colony an indispensable preliminary; but that, *on his return to the Colony*, His Excellency would be happy to take his (Your Memorialist's) application into consideration, *if then renewed*. *Vide Appendix C.*

Decision on
application.

9. That it is true Your Memorialist was then about to sail for England, but it was merely for the purpose of bringing out his Wife and family (who were there on a visit) and of then settling in the Colony for life; and in the course of that Year he accordingly did proceed to England, whence he returned, in pursuance of his plan, in the month of April, 1832, accompanied by his family, General Darling having in the interim been succeeded by his present Excellency Governor Bourke.

10. That, with the exception of one trip to the Whaling grounds in the South Sea, Your Memorialist has resided in the Colony ever since his aforesaid return from England, and considers himself a Settler therein for life.

11. That, for three or four months after his said return, Your Memorialist's time was wholly occupied in disposing of his Cargo and re-fitting his Vessel; but, in the month of August of that year, he made application to the Governor (his present Excellency Major General Bourke) for the Grant of land promised to Your Memorialist by His Excellency's predecessor.

Renewal of
application
for land grant.

12. That in reply to the said application, Your Memorialist received from His Excellency's Private Secretary a Letter dated 8th October, 1832, informing Your Memorialist, by the Governor's command, that, the Regulations for free Grants having been cancelled before his (Your Memorialist's) return to the Colony, His Excellency could not, consistently with The King's Instructions, authorise the disposal of Crown lands in any other manner than by *Sale*. *Vide Appendix D.*

Refusal of
application.

13. That Your Memorialist was thus deprived of his recognised and admitted right by circumstances over which he could not possibly have had any control; and indulging the most confident hope that His Majesty's enlightened Government will perceive, by the foregoing statement, that he has not in any wise incurred a just forfeiture of his claim, ventures to make his present appeal to His Majesty's Chief Minister for the Colonial Department.

Appeal to
secretary
of state.

14. That Your Memorialist's flocks of Sheep have now increased to fifteen hundred (1,500) heads, but, not having any lands of his own whereon to forage them, he has been under the necessity of placing them under the charge of other Settlers at an expense of one-third of the increase thereof.

1835.
17 Feb.
Request for
land grant.

Wherefore Your Memorialist humbly prays that you, Right Honourable Sir, will be pleased to take the premises into your favourable consideration, and instruct His Excellency the Governor to authorise Your Memorialist to select the quantity of land to which he proved himself entitled before the Land Board as aforesaid; or, should you, Right Honourable Sir, deem it necessary that farther proof should be had as to the truth of the allegations herein contained, that you will be pleased to make the said instructions contingent upon Your Memorialist's satisfying His Excellency the Governor in Council of the truth thereof.

And Your Memorialist, as in duty bound will ever pray, etc., etc.,
EDMUND HARRISON CLIFFE.
Sydney, New South Wales, 14th November, 1834.

(Appendix A, referred to in paragraph 5.)

MR. T. C. HARRINGTON TO MR. E. H. CLIFFE.

Reference of
application
to land board.

Sir, Colonial Secretary's Office, Sydney, 5th June, 1830.
I am directed by His Excellency the Governor to inform you, that your application for land, dated the 3rd June, 1830, has been referred to the Land Board, before whom you will be pleased to hold yourself in readiness to appear, with the necessary proofs of the actual amount of your Capital, which is now available in this Colony for Agricultural purposes, according to the existing Regulations.

I have, &c.,
for the Colonial Secretary,
T. C. HARRINGTON.

(Appendix B, referred to in paragraph 6.)

MR. J. BUSBY TO MR. E. H. CLIFFE.

Summons to
appear before
land board.

Sir, Land Board Office, Sydney, 8th June, 1830.
Your application to His Excellency the Governor for a Grant of land having been laid before the Land Board, with directions to ascertain the Capital of which you are possessed, immediately available for Agricultural purposes, we beg leave to request you will be pleased to call at this Office on the earliest day you may find it convenient, Sundays excepted, at any hour between 11 o'Clock in the morning and 4 in the afternoon, giving us at least one day's previous notice.

It is expected that you will bring with you the necessary documents to shew the amount of your Capital; and that you will also be prepared to give the names, and procure the attendance of one or two persons of known respectability, who can vouch for the amount of Capital which you have at your immediate command.

We have, &c.,
By the Board,
JAMES BUSBY.

(Appendix C, referred to in paragraph 8.)

COLONIAL SECRETARY MACLEAY TO MR. E. H. CLIFFE.

Decision on
application.

Sir, Colonial Secretary's Office, Sydney, 10th July, 1830.
With reference to my Letter of the 5th Ultimo informing you that your application for land of the 3rd had been transmitted to the Land Board.

I am directed by the Governor to inform you that, as from the Report of the Board it appears that you have in contemplation an early voyage to England, you cannot be permitted, at present, to receive land consistently with the Regulations, which render the execution of a Bond for three Years' residence in the Colony an indispensable preliminary; but that, on your return to the Colony, His Excellency will be happy to take your application into consideration, if then renewed.

I am, &c.,
ALEXR. MCLEAY.

(Appendix D, referred to in paragraph 12.)

PRIVATE SECRETARY BOURKE TO MR. E. H. CLIFFE.

Refusal of free
land grant.

Sir, Government House, 8th October, 1832.
I am commanded to acknowledge your Letter of the 30th August, respecting an application made by you for a Grant of Land on the 10th July, 1830, and to inform you in reply that, the Regulations for free Grants having been cancelled before your return to the Colony, His Excellency the Governor cannot, consistently with the King's Instructions, authorise the disposal of Crown Lands in any other manner than by Sales. I have the honor to return the original enclosures transmitted in your Letter.

I have, &c.,
R. BOURKE, P. Secty.

(Appendix E.)

IN THE MATTER OF AN APPEAL TO HIS MAJESTY'S GOVERNMENT.

1835.
17 Feb.

Cumberland, New South Wales, to Wit.

EDMUND HARRISON CLIFFE, of Chouder Bay, in the Colony aforesaid, Gentleman, Affidavit by being duly sworn, maketh Oath and Saith that the several allegations, contained in the foregoing Memorial from himself to the Right Honourable the Secretary of State for the Colonies, are, to the best of his (Deponent's) knowledge and belief, strictly true and correct. E. H. CLIFFE.

EDMD. H. CLIFFE.

Sworn before me this 12th day of January, 1835.—CHAS. WINDEYER, 2nd Police Magistrate of Sydney.

(Appendix F.)

IN THE MATTER OF AN APPEAL TO HIS MAJESTY'S GOVERNMENT.

Cumberland, New South Wales, to Wit.

RICHARD JONES, of Sydney, in the Colony aforesaid, Member of the Legislative Council of the said Colony, being duly sworn, maketh Oath and Saith, that the several allegations, contained in the foregoing Memorial from Mr. Edmund Harrison Cliffe to the Right Honourable the Secretary of State for the Colonies, are, to the best of his (Deponent's) knowledge and belief, strictly true and correct. Proposed affidavit by R. Jones.

Sworn before me this day of 1835. Not sworn to—

Vide Certificate.

I hereby certify that the several allegations, contained in the foregoing Memorial from Mr. Edmund Harrison Cliffe to the Right Honorable the Secretary of State for the Colonies, are, to the best of my knowledge and belief, strictly true and correct. Certificate by R. Jones.

Witness my hand this 28th day of January, 1835. RICHARD JONES.

(Appendix G.)

IN THE MATTER OF AN APPEAL TO HIS MAJESTY'S GOVERNMENT.

Cumberland, New South Wales, to Wit.

THOMAS WALKER, of Sydney, in the Colony aforesaid, a Justice of the Peace for the said Colony, and Nephew of the William Walker, Esquire, mentioned in the foregoing Memorial from Mr. Edmund Harrison Cliffe to the Right Honourable the Secretary of State for the Colonies, being duly sworn, maketh Oath and Saith, that the several allegations contained in the said Memorial are, to the best of his (Deponent's) knowledge and belief, strictly true and correct. THOS. WALKER.

Sworn before me this 17th day of January, 1835.—W. H. DUTTON, J.P.

(Appendix H.)

TERMS upon which Land is granted to Settlers in New South Wales and Van Diemen's Land. Terms for land grant.

24. The personal residence of Individuals on the Land which they may obtain by Grant or purchase, or the employment on the spot of a free Man of approved character and respectability will be made an indispensable condition.

Colonial Office, Downing Street, April, 1827.

SIR RICHARD BOURKE TO RIGHT HON. T. SPRING RICE.

(Despatch No. 31, per ship Roslyn Castle; acknowledged by lord Glenelg, 28th September, 1835.)

Sir, Government House, 18 Feby., 1835. 18 Feb.

In attention to the Instruction by which I am desired to forward Communications from the Colonists addressed to the Secretary of State, I have the honor to transmit a letter from the Commercial Banking Company of Sydney. Transmission of letter from Commercial banking company.

I have, &c.,
RICHD. BOURKE.

[Enclosure.]

[A copy of this letter* is not available.]

* Note 166.

1835.
19 Feb.

SIR RICHARD BOURKE TO RIGHT HON. T. SPRING RICE.
(Despatch No. 32, per ship Roslyn Castle; acknowledged by
lord Glenelg, 3rd November, 1835.)

Sir, Government House, 19 Febr., 1835.

Additional
appointments
to custom
department.

On the earnest application of the Officers of Customs, I have found it necessary as will appear from the correspondence of which I have the honor to transmit copies, to make an addition to their Department of, A Landing Waiter at £200 a year; A Junior Clerk and an assistant Locker, at £150 a year each.

This has been done to meet the urgency of the case, until it can be brought forward before the Legislative Council at their next meeting, when I have no doubt the public service will require the augmentation to be made permanent and included in a supplementary estimate.

I have, &c.,

RICHD. BOURKE.

[Enclosures.]

[Copies of these letters, dated 12th November, 1834, and 2nd and 12th January, 1835, will be found in a volume in series II.]

EARL OF ABERDEEN TO SIR RICHARD BOURKE.
(Despatch No. 26, per ship Westmoreland.)

20 Feb.

Sir, Downing Street, 20th February, 1835.

Chaplains
appointed to
Roman Catholic
church.

With reference to my Despatch No. 4 of the 22d Decr., 1834, apprising you of the intention of the Government to appoint four additional Chaplains to the Establishment of Roman Catholic Clergy at New South Wales, I have the honor to acquaint you that the following Priests have been selected, and will shortly take their departure for the Colony, viz.:—Revd. Dr. Polding; Revd. Mr. Cotham; Revd. Mr. Corcoran; Revd. Mr. Sumner.

Allowance
for passage.

To each of the above persons an allowance of £150 has been issued by the Colonial Agent, in aid of the expense of their Passage to the Colony; and you will understand that they will respectively be entitled to receive, from the date of their arrival, a stipend of £150 per Annum.

Episcopal
powers
for Revd.
J. B. Polding.

There is one point connected with the position of the first named Clergyman, to which I beg to call your attention. Dr. Polding, when first selected, was intended only to officiate as a Chaplain; but, as it was subsequently considered advisable by the Church to which he belongs that, with the view of giving to him greater influence over the Clergy in the Colony, he should be permitted to exercise Episcopal authority, the sanction of the Government was given to the arrangement. The powers and

authority thus proposed to be vested in Dr. Polding are superior to those conferred upon the Revd. Mr. Ullathorne as Vicar General, whilst the Salary of the latter is higher than that assigned to the former. I am not prepared to sanction the augmentation of Dr. Polding's Allowance, so long as there is another Roman Catholic Clergyman in the Colony entitled to the same amount; but, on the other hand, it appears desirable to avoid the possibility of any unpleasant feelings existing between them. I, therefore, propose that Mr. Ullathorne should be removed to Van Diemen's Land upon the same rate of Pay as he now receives, when, if you should deem it advisable, Dr. Polding's Salary might be augmented to £200 per Annum. As I do not anticipate any objection, on the part of Mr. Ullathorne, to this arrangement, the necessary Communication on the subject of it will be made to Colonel Arthur; but, as the transfer of that Clergyman's services to another Colony may, if too early pressed, be attended with personal inconvenience to him, you will of course give him every reasonable latitude in this respect which he shall require; and, upon his removal to Van Diemen's Land, you will furnish him with a letter of introduction to Colonel Arthur, defraying, at the same time, the expenses of his Passage thither.

Dr. Polding will be accompanied by Three Students, Messrs. Gregory, Spencer and Kenny, who are in course of preparation for Holy Orders, but who are intended to act for the present as Catechists. The Colonial Agent has issued to each of them the sum of £100, in aid of the expenses of their Passage to the Colony; but no expectation has been held out to any of them by this Department, that they will receive any Salary or Allowance whatever from the Government.

As it is very desirable that Dr. Polding should be enabled to exercise a salutary influence over the conduct of the Roman Catholic Chaplains, I beg to suggest the propriety of your adopting some arrangement with a view to ensure that object.

I am, &c.,

ABERDEEN.

1835.
20 Feb.

Salary for Revd.
J. B. Polding.

Revd. W. B.
Ullathorne to
be removed to
Tasmania.

Divinity
students to act
as catechists.

SIR RICHARD BOURKE TO RIGHT HON. T. SPRING RICE.

(Despatch No. 33, per ship Roslyn Castle; acknowledged by
lord Glenelg, 13th November, 1835.)

Sir, Government House, 20 Feby., 1835.

In accordance with the Instructions by which I am desired to forward Communications addressed to the Secretary of State, I have the honor to forward a Memorial from Mr. Burman Langa, the Comptr. of Customs, praying for a grant of land on

Transmission of
memorial from
B. Langa.

1835.
20 Feb.

the ground of his being led to expect this advantage when he accepted office. The claim has been already disallowed* by Lord Goderich; but, as Mr. Langa is about to proceed to England on leave, he will probably renew his application personally in the hope of being able to make out a stronger case than that on which His Lordship decided.

Testimony
in favour of
B. Langa.

I have ascertained that the statements contained in Mr. Langa's Memorial, with respect to facts which have occurred since his arrival in the Colony, are correct and can speak very favorably of his attention to the duties of his office.

I think it proper to mention that some other Civil officers in this Colony, who were led to expect land from the Regulations in force when they accepted office, have not received any.

I have, &c.,

RICHD. BOURKE.

[Enclosure.]

[A copy of this memorial is not available.]

EARL OF ABERDEEN TO SIR RICHARD BOURKE.
(Despatch No. 27, per ship Marquis of Huntley.)

25 Feb.
Approval of
acts of council.

Sir, Downing Street, 25 February, 1835.

I have the honor to acknowledge the receipt of your despatch No. 89 of the 26th of Novr., 1833, with which you transmitted thirteen Public and one Private Acts, passed by the Governor and Legislative Council of New South Wales in the months of July and August, 1833, the Titles of which are stated in the subjoined List.

Having laid these Acts before The King, I have the honor to acquaint you that His Majesty has been graciously pleased to approve and confirm the same.

I have, &c.,

ABERDEEN.

[Enclosure.]

[This list of titles† has been omitted.]

EARL OF ABERDEEN TO SIR RICHARD BOURKE.
(A circular despatch per ship Westmoreland.)

Sir, Downing Street, 25th February, 1835.

Concessions to
ordnance officers
as settlers.

My attention having been drawn to the circumstance that in the 3d and 6th Paragraph of the printed Regulations respecting Military Settlers, transmitted to you in Mr. Spring Rice's Circular despatch of 14th August, 1834, no distinct mention is made of the Ordnance Military Corps, I have the honor to

* Note 167.

† Note 168.

acquaint you, as you will probably have inferred from the general tenor of the Regulations, that the omission was accidental, and that the same regard must be had to Testimonials or Certificates from the Ordnance in favor of Military Officers under that Department, as to similar Documents from the General Commanding in Chief in favor of other Military Officers.

1835.
25 Feb.

Concessions to
ordnance officers
as settlers.

I have, &c.,
ABERDEEN.

EARL OF ABERDEEN TO SIR RICHARD BOURKE.

(Despatch No. 28. per ship Marquis of Huntley; acknowledged by Sir Richard Bourke, 24th July, 1835.)

Sir, Downing Street, 4 March, 1835.

4 March.

I have had under my consideration your dispatch No. 1 of the 5th of January, 1834, on the Subject of the Measures which you had been instructed by His Majesty's Government to adopt for enhancing the Severity and increasing the wholesome tenor of the Punishment of Transportation to the Australian Colonies.

Problems *re*
severity of
punishment of
transportation.

Your dispatch reached this office on the 24th of June last, and was communicated with several other dispatches received from Lt. Governor Arthur on the same general subject to His Majesty's Secretary of State having the charge of the Home Department. Public events* of too much notoriety to require any particular explanation unavoidably retarded the proceedings of that Department in the investigation of the many important questions, which were thus brought under their review. But on the 12th Ulto., Mr. Secretary Goulburn conveyed to me a Statement of the conclusions, which he had been induced to form upon these topics. I enclose for your information a copy of the letter from his Under Secretary, in which that Statement is contained, with a copy of the opinion of the Attorney and Solicitor General, which is referred to in that letter.

Delay in
consideration
of problems.

It was within a very few days after His Majesty had been pleased to confide to me the Seals of this Department, that I entered into communications with Mr. Secretary Goulburn upon the most effectual methods by which the Secondary Punishment of Transportation could be made conducive to the great object of exciting a well founded alarm amongst that Class of Persons in this Kingdom, who are the most frequently urged into the Commission of the Crimes, to which the Law has attached that Penalty.

Necessity
for dread of
punishment of
transportation.

It has been impossible for me to resume the discussion of that Subject with yourself, until my Colleague in Office had pursued to a close the Enquiry in which he was engaged, in consequence of the doubt,† which had been raised, both in New South Wales

* Note 169.

† Note 170.

1835.
4 March.

Legal inability
to sentence
convicts to hard
labour in
chains.

and Van Diemen's Land as to the lawfulness of the Instructions, which you had received from one of my Predecessors.

The opinion of the Chief Justice of New South Wales is, as you will observe, confirmed by the Report of the Law officers in this Country. It must, therefore, be acknowledged as the Rule of Law that, in passing Sentences of Transportation, the Judges cannot direct a Convict to be kept to hard labour in Chains, and that the Secretary of State has not authority to give such an Order; but that the use of Chains is to be justified only by the necessity of preventing an escape, and therefore is not defensible, except so far as that necessity can be truly alleged in any particular case. It would be idle to affect any reserve in acknowledging that the Instructions,* which proceeded from this Office on the subject of Chains, were founded on a misconception of the Law, in which a former Secretary of State for the Home Department participated. It is not in my power, nor is it perhaps material to ascertain the origin of this error; the consequences of it however must be repaired, so far as they are reparable, with the utmost possible promptitude; and all Persons, who are at present confined in Chains in New South Wales under any Order from this office, must be immediately relieved from them. I need scarcely say that, so long as the Law remains unaltered, no similar Instructions will ever be addressed to you.

Principles to be
adopted for
labour of
convicts in
road gangs.

You will observe that Mr. Goulburn expresses his opinion that it will be right to caution the Governors that "they do not permit the labour of the Convicts, when placed in Working Gangs on the roads, to be so relaxed as to deprive the Punishment of its proper degree of Severity and restraint or to deprive it of its terrors." He states that "continuous Labour and Constant Superintendance, with as little communication and Intercourse as the circumstances and nature of the Works will admit, must be the object aimed at," and Mr. Goulburn expresses "his hope that this great end may be effectually secured." I cannot convey to you this intimation without, at the same time, offering a remark respecting the danger of punishment being urged beyond that point of suffering, after which it ceases to produce any salutary effect. Nothing can be more true than that, when hope is extinguished, every aggravation of mere bodily pain or annoyance induces no beneficial result, when the immediate action of the Stimulus is spent; and that men, enured to crime and to the dissipation with which it is usually attended, will regard with absolute despair a state of suffering of which the termination is not to be expected for so long a term as seven years. Some elasticity of mind must be preserved amongst the Convicts, if for no other reason, yet, at least, to render them effectively

* Note 170.

amenable to that discipline, to which it is necessary to have recourse for the correction or prevention of new offences. I must, therefore, avow that, even if the Law had not forbidden the practice of confining the Convicts in Chains for seven years from their arrival, and if I could have reconciled myself to the infliction of such a punishment as a general or prevalent practice, I should yet have greatly doubted whether such a measure would not have been found to counteract the very purposes with a view to which it had been adopted. It is no doubt true that, with a view to the prevention of Crimes in this Country, the real condition of the transported Convict should be generally known; and that the punishment should not prove to persons of adventurous spirit rather welcome than repulsive. At the same time, it may justly be questioned whether the knowledge of a greatly increased Severity of Treatment be at all likely to produce any commensurate effects in deterring from the Commission of Crime, while to the Criminal himself the consequences must be most deplorable by depriving him of all chance of reformation.

1835.
4 March.

Principles to be adopted for labour of convicts in road gangs.

Mr. Goulburn, as you will observe, is of opinion that, without the Authority of the Secretary of State, no remission of punishment ought to be granted. Upon this subject, I am unable to give any Instructions for your guidance, because your powers in this respect as Governor of New South Wales depend upon the Statute Law, which, of course, must be the Rule of your conduct until the Legislature shall see fit to alter it.

Remission of punishments.

The reasons, mentioned by Mr. Goulburn, will, I trust, sufficiently explain why the proposed Classification of Convicts, in reference to Individual character, cannot be attempted with any prospect of Success.

Objections to classification of convicts.

You will perceive that Mr. Goulburn entirely concurs in the suggestions both of yourself and of Colonel Arthur that the Convicts should be apprized of the general nature of the Punishment awaiting them, before they shall actually sail from this Kingdom, and that, as far as it may be practicable, these suggestions will be acted upon.

Necessity for informing convicts of nature of punishment.

I cannot close this communication without assuring you of the gratification I have derived from the Proofs, which your dispatch affords of the enlightened zeal for the Public Service with which that part of your Official duties, which has been brought under my notice, is performed, and of the desire which you have manifested to promote not only the Welfare of the Colony under your Government, but also those more extensive Interests, which are so intimately connected with the proper care and Controul of its Convict Population.

Approval of administration of R. Bourke.

I am, &c.,

ABERDEEN.

1835.
4 March.

[Enclosure.]

UNDER SECRETARY PHILIPPS TO UNDER SECRETARY HAY.

Sir,

Whitehall, 12 February, 1835.

Consideration
of problems of
punishment by
transportation.

I have received and laid before Mr. Secretary Goulburn your letter of the 17th November last, transmitting, with reference to the correspondence which has already taken place between the Colonial Office and this Department respecting the measures to be taken for the more effectual punishment of Offenders transported to the Australian Colonies, a copy of a dispatch from Major General Bourke, together with copies of three others from Lieut. Governor Arthur, in answer to the communications notifying to those officers the mode in which His Majesty's Government had decided upon increasing the Severity of Secondary Punishments.

Problems
involved *re*
labour in
chain gangs.

Mr. Goulburn directs me to acquaint you, for the information of the Earl of Aberdeen, that, on the consideration of these documents, it appears to him that the observations of the Governors, relative to the Instructions which had been conveyed to them from this Government, suggest two important considerations: 1st. Whether it be legal to subject any Convict, who may have been sentenced to Transportation, to working in Irons except on Special occasions, and when working in Irons may be necessary for the prevention of escape; and 2d. Whether it be expedient to sentence Prisoners to the Chain Gangs for so long a period as 7 years, without hope during that time of any remission of Punishment.

Legal opinion
adverse to
labour in irons.

The first point being much too important to be left to doubt, Mr. Goulburn has thought it right to refer that question to the Law Officers of the Crown. Their opinion, of which I enclose a copy, distinctly negatives the power of the Judges in this Country to sentence Convicts to be worked in Chains after transportation, as well as the authority of the Secretary of State to give such an Order; as the Chains, if used, are to be used as a means of preventing escape not as a mode of punishment.

Instructions
proposed *re*
use of chains;

Under these circumstances, Mr. Goulburn is of opinion, that the Governors of the Australian Colonies should be instructed not to make use of Chains as a means of aggravating the Punishment of Offenders transported under Sentence from this Country, but with respect to such persons to limit the use of Chains to those cases in which alone the Law Officers consider it legal.

and *re* labour
in road gangs.

But, although the Working in Chains must therefore necessarily be limited to such special cases, Mr. Goulburn thinks it will be right to caution the Governors that they are not to permit the labour of the Convicts, when placed in Working Gangs on the roads, to be so relaxed as to deprive the punishment of its proper degree of Severity and restraint, or to deprive it of its terror. Continuous labour under constant superintendance, with as little communication and Intercourse as the circumstances and nature of the Work will admit, must be the object aimed at; and Mr. Goulburn trusts this great end may be effectually secured.

With respect to the other consideration adverted to by the Governors, it appears to Mr. Goulburn that, in as much as the restriction in the use of Chains, according to the opinion of the Law Officers, must operate materially in diminishing the degree and disgrace of the punishment inflicted, it will be less necessary to invest the Authorities in the Colonies with a discretionary power of reducing the term and duration of the Punishment. The rule ought

undoubtedly to be that the punishment shall endure for 7 years according to the Sentence. On the other hand, it may be proper occasionally to make an exception to this rule in certain cases, where the punishment inflicted has already produced the effect of real reformation; and, in such cases, the Governors might recommend to the Secretary of State a relaxation of the Punishment; but without the authority of the Secretary of State such a remission of the punishment ought not to be conceded.

1835.
4 March.

System proposed for remission of sentences.

With reference to that part of the correspondence in which the Governors express anxiety to receive, with the Convicts, particular reports of character and conduct, from which the shades of guilt of the several Classes of Offenders may be more accurately distinguished, Mr. Goulburn directs me to observe that every endeavour has been and will continue to be made with a view to satisfy the wishes of the Governors upon this Subject; but it would be obviously impossible to furnish precise and satisfactory information as to the degree of guilt, which may attach to the several Convicts in the Crimes committed by them; for, although they may have been convicted of Crimes of the same denomination, yet they may, in point of guilt, differ from each other in every possible variety and degree; and Mr. Goulburn thinks it will not be practicable to supply more than general information as to previous character and conduct. An attempt at precision, Mr. Goulburn fears would only lead to very voluminous reports of trials and details of circumstances, which it would be very difficult to collect, and which, when collected, would be too cumbrous and confused to afford information of much real value.

Reports re character and crimes of convicts.

Mr. Goulburn thinks it will be more practicable to adopt the other suggestion made by the Governors, namely, that of apprising the Convicts, previously to their departure, of the real nature of the punishment to which they are to be subjected; and Mr. Goulburn will give directions for ensuring this object.

Convicts to be informed of nature of punishment.

I am, &c.,

S. M. PHILLIPPS.

[Sub-enclosure.]

CASE as to the legality of employing Transported Convicts in the Colonies on Public Works in Chains.

THE 5 G. 4, C. 84, provides for the Transportation of Convicts sentenced to that Punishment.

Opinion by counsel re legality of employing convicts at labour in chains.

By Section 8, it is enacted that, as soon as any such Offenders shall be delivered to the Governor of the Colony or other Person or Persons to whom the Contractor or Person nominated by the Secretary of State shall be directed to deliver Him, the property in the Service of such Offender shall be vested in the Governor of the Colony for the time being, or in such other Person or Persons who may assign the same, and the Assignee may assign as often as is thought fit.

By Section 10, His Majesty is empowered to appoint places of Confinement in England of Male Convicts under Sentence of Transportation to be under the management of a Superintendent.

S. 11 empowers His Majesty to appoint one or more Superintendents.

1835.
4 March.
—
Opinion by
counsel *re*
legality of
employing
convicts at
labour in
chains.

By S. 15, The Superintendents shall have the same powers over the Convict as a Sheriff or Gaoler. And he is required to keep such Offender to Labour at such Places and under such Regulations, directions, limitations and restrictions as by the Secretary of State shall from time to time be prescribed.

The Convicts, on board the Hulks and when at Labour on shore, are kept in Irons under Regulations issued by the Secretary of State to the Superintendent of Convicts under the power given by the said act.

Mr. Secretary Goulburn has been pleased to direct the Solicitor of the Treasury to request the early opinion of the Attorney and Solicitor General thereon.

1st. Whether the Employment of Convicts in the Colonies at hard labour on the Roads or Public Works in Chains is legal; and, if so, whether the Judges in passing Sentence of Transportation may order Convicts to be so employed, or whether the Secretary of State, if the Judge gives no such Order, is by Law authorised to direct the Governors of those Colonies to appoint any Convict to Labor in Chains.

2d. Whether Chains may be used and put on Convicts sent to the Colonies for the purpose of due Security to prevent escape from Labour on the Roads or Public Works.

1. We are of opinion that those Convicts, who are directed by His Majesty by an Order in Council under 13 Sec. of 5 G. 4 to be kept to hard labour in some part of His Majesty's Dominions out of England, may legally be employed in hard Labour in the Colonies, to which they are sent, on the Roads or Public Works *and in Chains*, if it be thought needful by the Superintendent appointed under that act to prevent their Escape.

We think however that the Judges in passing Sentence of Transportation cannot properly as part of the Sentence direct the Convict to be kept to hard labour in *Chains*, nor do We think that the Secretary of State would be authorised in giving such an Order; the Chains, if used, are to be used as a means of preventing escape, not as a mode of Punishment.

2. We think that Chains may be put on all Convicts sent to the Colonies in cases where they are necessary to prevent the escape of the Convicts.

FRED. POLLOCK,
W. W. FOLLETT.

Temple, 28 January, 1835.

EARL OF ABERDEEN TO SIR RICHARD BOURKE.

(Despatch marked "Separate and Confidential," per ship
Marquis of Huntley.)

Sir, Downing Street, 4 March, 1835.

Legal disability
to sentence
convicts to
labour in
chains.

In my official dispatch of this date, I have informed you of the concurrence of the Law officers of the Crown in this Country, in the opinion* expressed by the Chief Justice of New South Wales, that the Government have no power to alter the Sentence of the British Courts so as to subject a Convict to a severer Punishment, after his arrival in the Colony, than his

* Note 170.

original Sentence implied, and that so long as the Law remains unaltered no future Instructions to that effect will be conveyed to you.

1835.
4 March.

It is impossible not to anticipate a difficulty, in which you may perhaps be involved by Claims which Convicts may urge for compensation, or by Actions which they commence for Damages on account of their past detention in Irons. It would however be futile to attempt to furnish you with provisional Instructions for your guidance in any exigency, the nature of which could be foreseen only by vague conjecture, and which, if it should arrive, you would, I am persuaded, encounter with your characteristic firmness and discretion. It is almost superfluous to add that, for the Acts which you may have done in accordance with the Instructions which have reached you from this office, the ultimate responsibility will *not* rest with yourself.

Possible claims for compensation from convicts for illegal punishments.

I am, &c.,

ABERDEEN.

EARL OF ABERDEEN TO SIR RICHARD BOURKE.

(A circular despatch per ship Marquis of Huntley.)

Sir,

Downing Street, 5 March, 1835.

5 March.

By the 19th s. of the Mutiny Act, 4 Will. IV, c. 6, it is provided that, whenever any Sentence of transportation passed by any Court Martial holden in any part of His Majesty's Foreign Dominions is to be carried into Execution for the term specified in such sentence or for any shorter term, or when Sentence of Death has been or shall be commuted for Transportation, the same shall be notified by the Officer Commanding in Chief His Majesty's Forces at the Station, or in his absence by the Adjutant General for the time being to the Chief Justice or some other Judge, as the case may be, in any part of His Majesty's foreign Dominions, who shall make Order for the transportation or intermediate Custody of such offender, in like manner as for the transportation or intermediate Custody of any other Convict under the Statute 6 Geo. IV, c. 69, and an Order of His Majesty in Council of the 11th November, 1825; and the necessary Proceedings shall be taken according to such Order for the transportation or intermediate Custody of such Offender.

Provision for transportation of offenders sentenced by court-martial.

It thus appears that no military Convict can be lawfully transported from any British Colony, except in pursuance of the Order of the King in Council to which the preceding Enactment refers. It having recently been brought within my knowledge that, in one at least of those Colonies, no Copy of the Order in

Transportation of military convicts regulated by order-in-council.

1835.
5 March.

Transmission of
copies of order-
in-council.

Council was to be found, I have thought it right to prevent the recurrence of a similar difficulty in any other of His Majesty's Possessions abroad by transmitting to them all Copies of that Order, with the present Circular Despatch. You will accordingly find three such Copies enclosed, one of which you will cause to be deposited in the office of the Colonial Secretary, another of which you will deliver to the Chief Civil Judge of the Colony under your Command, and the third you will place in the hands of the Senior Officer in Command of His Majesty's Land Forces in the Colony.

Instructions
re execution
of sentences of
transportation.

I avail myself of the present opportunity for entering upon some explanations connected with the Execution of Sentences of transportation pronounced in the Colonies, whether by the Civil or the Military Tribunals. On that subject, I find that much misapprehension and consequent confusion have arisen; and, although some of the directions which it is my present object to convey may be applicable exclusively to His Majesty's West India and North America Possessions, yet I think it more convenient to embrace the whole question in one general Circular Despatch, than to discuss in separate Despatches those particular parts of it in which the different Colonies may be severally interested.

Statutory
provisions *re*
sentences of
transportation
on colonial
convicts.

On reference to the British Statute Book, you will perceive that there are three distinct Acts of Parliament, each of which relates to the mode of carrying into Execution Sentences of Transportation, which may be passed in the Colonies upon Offenders convicted in the Colonial Tribunals. The Acts, to which I refer, are 5 Geo. IV, c. 84, s. 17, 6 Geo. IV, c. 69, s. 4, and the 19th s. of the Annual Mutiny Act. By the first of these Enactments, provision is made for transmitting Colonial Convicts to this Kingdom, with a view to their being dispatched hence to such Place of Transportation, as His Majesty may be pleased to appoint. By the second Act, the King in Council is authorized to appoint, or to delegate to the Governors of the British Colonies respectively the power of appointing the Places of transportation to which Colonial Convicts are to be sent. That delegation appears to have been made to the Governors of all the Colonies in-differently by the Order in Council of the 11th November, 1825. The Mutiny Act refers to that Order as furnishing the Rule according to which the Execution of Sentences is to take place in the case of Military Convicts.

Inconsistency
between two
statutes.

It will readily be perceived that, between the first and the second of these Statutes, there is some want of consistency. The Rule, which requires the transmission of a Convict to England to be transported to such Place as His Majesty shall select, can

scarcely be carried into Execution simultaneously with the Rule which requires the transportation of such Convicts to such Place as the Governor may appoint. The cause of this apparent Contradiction I understand to have been as follows.

1835.
5 March.

Several Convicts had been sent to New South Wales from His Majesty's Settlements on the Coast of Africa, or to the Eastward of the Cape of Good Hope. Their Passage, as would naturally occur in such a case, was effected not through England but immediately from the Place of their Conviction to the Place of their Transportation. On their arrival in New South Wales, it was however discovered that, not having been sent thither by His Majesty's Authority in pursuance of the Statute 5 Geo. IV, c. 84, but merely by the Authority of the local Governments of the Colonies in which the Convictions had taken place, there were no legal means of subjecting them to restraint and labour in New South Wales. The Statute, 6 Geo. IV, c. 69, was passed to meet this Evil, and to prevent the recurrence of it. I thus notice the History of this Enactment, as the most compendious mode of explaining its real design.

Irregular transportation of convicts from African settlements.

Throughout His Majesty's transatlantic Possessions, the mode of proceeding on the conviction of a Prisoner for a transportable offence appears generally to be as follows:—The Offender is sentenced by the Court to transportation to some specific Place, most frequently to New South Wales, but occasionally to Bermuda. This practice appears to be erroneous for more reasons than one. First, It is not in accordance with either of the British Statutes in force on the Subject, for it neither refers the Place of transportation to His Majesty's decision, nor does it direct the Offender to be sent to the Place indicated by the Governor's Proclamation. Secondly, as far as respects Bermuda, such Sentences proceed upon a misapprehension of the nature and object of the Convict Establishment maintained at that Place. Bermuda is not, and was never intended to be, a Place of transportation in the correct Sense of that Word. Certain public Works being in progress there, some Convicts have been sent from this Country to labour upon them, precisely in the same manner as others were employed on the Hulks at Woolwich, or in the Dock yard at Portsmouth. There is not at Bermuda either a demand for the service or means for the subsistence of an unlimited number of Convicts. It is not the design of His Majesty's Government that any Person should be transported thither, excepting only such Offenders as may be specially selected for that purpose by the Secretary of State for the Home Department.

Practice *re* sentences of transportation in transatlantic possessions.

Irregular transportation of convicts to Bermuda.

1835.
5 March.
Practice re
sentences of
transportation
in Mediter-
ranean
possessions ;

and in African
colonies.

General rules
for execution
of colonial
sentences of
transportation.

In His Majesty's Possessions in the Mediterranean, the mode of proceeding, with regard to Convicts under Sentence of transportation, appears to have been in conformity with the Statute 5 Geo. IV, c. 84. They have been adjudged to transportation to such place as His Majesty may appoint, and have been sent to England thence to be removed to such ulterior place of destination.

In the British Colonies on the Coast of Africa, and to the Eastward of the Cape of Good Hope, the practice, as far as it can be traced, has been that of executing the Statute 6 Geo. IV, c. 69, and of condemning Convicts to transportation to such Places as the Governor should appoint, or might have appointed. My present Object is to lay down such Rules for the guidance of the Governors of the whole range of the British Colonies, as shall, if possible, prevent any Errors, and all needless inconsistencies in their practice hereafter.

First. With a view to the execution of the Mutiny Act, it is indispensably necessary that the Governor of each Colony should execute the powers with which he is invested by the Statute 6 Geo. IV, c. 89, and by the Order in Council issued in pursuance of it.

Secondly. In the Proclamations to be issued in pursuance of that Act and Order in the American and West India Colonies, special care must be taken not to name Bermuda as a Place of transportation. For the reason already mentioned, it could not be named without creating great public Inconvenience.

Thirdly. Throughout His Majesty's American, West Indian and Mediterranean Colonies, it will be convenient that the uniform practice be observed of sending to England all persons condemned to transportation, in order that such Persons may be removed from this Country to whatever Place His Majesty may from time to time see fit to appoint. With that view, and in order to prevent as far as possible, any collision between the operations of the various Statutes which I have mentioned, the Officer administering the Government of each of those Colonies will issue a Proclamation in the Terms of the enclosed form, which, as being applicable to those Cases only, is not transmitted to the Governors of the other Colonial Possessions of the Crown.

Fourthly. The Governors of the British Colonies in Africa, of Mauritius, Ceylon, and the Australian Colonies respectively, will, in pursuance of the Statute 6 Geo. IV, c. 69, issue Proclamations appointing such Places as they shall judge most convenient for the reception of Convicts transported from those Settlements. To send such Persons to England in the first instance would be

to incur much gratuitous Expence, suffering and trouble. New South Wales or Van Diemen's Land will of course be selected as Places of transportation from the other Eastern Colonies, and from the Australian Settlements Places of transportation have already been established.

Fifthly. I am of course aware that in some Colonies these Instructions will have been anticipated, and in such Cases nothing remains to be done but to adhere to existing Usages. For the present purpose however, it is needless to make distinctions of this nature, which perhaps I might not be able to make with perfect accuracy.

Sixthly. In conclusion I am to observe that, as the charge of forwarding Convicts from Great Britain to the Place of their ultimate destination is borne by this Kingdom, though it is not properly a British but a Colonial Expenditure, so the Cost of sending the Convicts to England for transportation must be borne by the respective Colonies in which the Convictions may take place.

I have, &c.,

ABERDEEN.

[Enclosure No. 1.]

[A copy of this order-in-council will be found on page 89, volume VII.]

[Enclosure No. 2.]

FORM OF PROCLAMATION.

WHEREAS, by certain Act of Parliament passed in the Sixth year of the Reign of His late Majesty King George the Fourth, entitled, "An Act for punishing Offences Committed by Transports kept to labour in the Colonies and better regulating the Powers of Justices of the Peace in New South Wales," it is amongst other things enacted, "That it shall and may be lawful for His Majesty by an Order or Orders to be by him from time to time for that Purpose issued, with the Advice of His Privy Council, to appoint, or by any such Order or Orders in Council to authorize the Governors, Lieutenant Governors, or other Persons for the time being administering the Government of any of His Majesty's Foreign Possessions, Colonies or Plantations, to appoint the Place or Places within His Majesty's Dominions to which any Offender convicted in any such Foreign Possession, Colonies or Plantations, and being under sentence or Order of Transportation, shall be sent or transported; and, that all such Persons shall, within the Place or Places to which, in pursuance of any such Order or Orders in Council, they shall or may be so sent or transported, be subject and liable to all such and the same Laws, Rules and Regulations as are or shall be in force in any such Place or Places, with respect to Convicts transported from Great Britain."

Form for
proclamation
re execution
of sentences of
transportation.

And Whereas His said late Majesty, by an Order by Him issued by the Advice of His Privy Council on the 11th day of November, 1825, in pursuance of the said Act of Parliament and in exercise of

1835.
5 March.

General rules
for execution
of colonial
sentences of
transportation.

1835.
5 March.
Form for
proclamation
re execution
of sentences of
transportation.

the Powers thereby in Him in that behalf "vested," did order, "That the Governors, Lieutenant Governors or other Persons for the time being administering the Government of any of His Majesty's Foreign Possessions, Colonies or Plantations, shall, from time to time, by Proclamation to be by them respectively for that purpose issued, appoint the Place or Places, within His Majesty's Dominions to which any Offender convicted in any such Foreign Possessions, Colonies or Plantations, and being under sentence or Order of Transportation, shall be sent or transported." Now therefore, I A.B. Governor, etc., of the Colony of _____ in pursuance of the said Order in Council and Act of Parliament respectively, and in exercise of the Powers thereby respectively in me as such Governor as aforesaid vested, do appoint that any Offenders convicted in the said Colony, and being under Sentence or Order of Transportation, shall be sent by the first convenient opportunity to England, thence to be transported to the Colony of New South Wales, or to the Colony of Van Diemen's Land, as His Majesty shall be pleased to direct.

EARL OF ABERDEEN TO SIR RICHARD BOURKE.

(Despatch No. 30, per ship Marquis of Huntley; acknowledged by Sir Richard Bourke, 12th August, 1835.)

10 March.
Instructions
for abolition
of "mounted
orderlies" for
governor.

Sir,

Downing Street, 10 March, 1835.

The very positive Instructions which were conveyed to you by my Predecessor on the 20th of October last, upon the subject of the charge which had been borne on the Colonial Estab. at New South Wales, on account of the Governor's Body Guard, would have superseded the necessity of my recurring to the subject, had I not observed in the Estimates of the Expenditure of your Government for the year 1835 that a Sum, exceeding that which had been previously allotted, was provided during that year for this Service. The Soldiers formerly employed as the Governor's Body Guard are now, it appears, designated "Mounted Orderlies"; this alteration however in their title does not remove the objection entertained by Lord Goderich to this charge, when he addressed to you his Dispatch of the 28th March, 1833; and it is therefore to be regretted that you should have kept up the Establishment, without even reporting the circumstances which may have induced you to adopt this measure. I have now to desire that, in the event of your not having taken the necessary steps for reducing this expense, in conformity with Mr. S. Rice's directions, you will immediately proceed to carry them into effect, and report to me that date at which the reduction will commence.

I am, &c.,

ABERDEEN.

SIR RICHARD BOURKE TO RIGHT HON. T. SPRING RICE.
(Despatch No. 35, per ship Red Rover; acknowledged by
lord Glenelg, 10th October, 1835.)

1835.
10 March.

Sir, Government House, 10 March, 1835.

By my Despatch of the 30th Janry. last No. 10, I had the honor to transmit a minute of the Executive Council, recommending that Military and Naval Officers be allowed remission money on leaving the service with a view to settle in the Colony, notwithstanding their having previously obtained land in the ordinary way.

Proposed remission of purchase money on land to naval and military officers.

A claim of this nature being now made by Captain Rossi, late first Police Magistrate, I would have waited for a reply to my Despatch above mentioned, but that I think it right to submit his case to your notice separately on account of his urging that the recent resignation of his employment in the Police was on the condition of his being allowed to sell his commission of Captain, and obtain remission money on purchasing land.

Application by F. N. Rossi.

I have the honor to enclose a Memo. received from Captn. Rossi, with extracts, appended, from the Documents on which he relies in support of his statement.

I have, &c.,

RICHD. BOURKE.

[Enclosures.]

[Copies of these papers are not available.]

EARL OF ABERDEEN TO SIR RICHARD BOURKE.

(Despatch No. 31, per ship Marquis of Huntley; acknowledged by
Sir Richard Bourke, 8th October, 1835.)

Sir, Downing Street, 12th March, 1835.

12 March.

I beg to acknowledge the receipt of your Dispatch No. 42 of the 2d May last, regarding the want of additional assistance in the Department of the Superintendent of Convicts.

Despatch acknowledged.

In consideration of the particular circumstances which you have stated, with the view of ensuring a more prompt and efficient performance of the various and important duties which devolve upon this Officer, His Majesty's Government are induced to sanction the Appointment of Four additional Clerks to the Superintendent's Department at Salaries of £100 per ann. each; and I have further to authorise the encreased rates of Salary to the Six Senior Clerks of that Establishment, which are proposed in the Superintendent's letter of the 24th April, 1834, and recommended in your Dispatch; those rates not appearing unreasonable, either as compared with the Salaries assigned to the Clerks in other Public Departments of the Colony, or when considered in reference to the Multifarious nature and general importance of the business transacted in the Superintendent's Office.

Additional clerks and salaries in office of superintendent of convicts.

1835.
12 March.

Printing of
indent of
convicts.

I have further to acquaint you that the Expenditure, which you have incurred in printing a certain number of Convicts' Indents for distribution in the Colony, is sanctioned; but, although I fully admit the expediency and probable economy of this measure, I shall suspend any final decision in respect to it, so far as regards any future expenditure of the same nature, until I shall have ascertained whether it may not be practicable, by sending to the Colony Manuscript copies of each Assignment List as early as possible after the departure of the Convicts, to avoid the heavy expense that would appear to attend the printing of them in the Colony; and I have therefore to request that you will take the subject into your consideration, and inform me what number of Copies of the Convicts' Indents would be required for the object which you have in view, at the same time favoring me with your opinion as to the practicability of reducing the proposed charge for this Service, either in the manner I have mentioned, or by some other arrangement.

I am, &c.,

ABERDEEN.

UNDER SECRETARY HAY TO SIR RICHARD BOURKE.

(Despatch per ship Marquis of Huntley; acknowledged by
Sir Richard Bourke, 20th November, 1835.)

14 March.

Sir,

Downing Street, 14th March, 1835.

Reported
detention of
H. and
N. McLaine
by Maoris.

I am directed by the Earl of Aberdeen to transmit to you the enclosed copy of a letter, which has been addressed to his Lordship by the Revd. A. McLaine relative to two young men, Brothers, named Hugh and Neill McLean, who, as the Writer has been informed, had fallen into the hands of the Natives of New Zealand where they were detained close Prisoners.

Lord Aberdeen's object in transmitting this communication to you is to request that you will enquire into the circumstances of the case; and, if it shall appear that the two young men in question are still detained against their Inclinations in New Zealand by the Natives, that you will communicate upon the subject with the British Resident there and take such other steps as the circumstances may justify for obtaining their release. Lord Aberdeen further directs me to request that you will be good enough to apprise him of the result of your Enquiry and the course which you may adopt, in order that the friends of the Parties may be relieved so far as may be practicable from the painful state of anxiety which they are now suffering on their account.

I have, &c.,

R. W. HAY.

[Enclosure.]

1835.
14 March.

REV. A. McLAINE TO EARL OF ABERDEEN.

My Lord,

Ardnamurchan Manse, 24 February, 1835.

I beg leave to submit to your Lordship the following Extract from a letter of date 19th September last, lately received from my Brother, G. Maclaine of the Mercantile House, Maclaine, Watson and Co., Batavia.

Reported detention of H. and N. McLaine by Maoris.

“A few days ago a respectable looking young man called at my office and introduced himself as a Mull man. His name is Morrison; he appears to have had a good education, and is now settled in Hobart Town, Van Diemen's Land, and I believe in good circumstances. He mentioned that poor Hugh McLaine and his Brother Neill, after visiting Java, had gone to New Zealand, and had fallen into the hands of the Natives there, and, when he last heard of them, were close prisoners, though a ransom had been offered. I earnestly hope they may escape, and, if any of our British Men of War touch here, I will make their miserable Situation known, and endeavour to get some of our Eastern Cruisers to look after them.”

Hugh and Neill MacLaine above alluded to are natives of the Isle of Coll, situated to the west of Mull in Argyleshire. Morrison is a native of Mull, an acquaintance and friend of the unfortunate Captives, and there is no reason to discredit his information. Hugh Maclaine I know personally. In his character, there was a remarkable combination of steady prudence, great enterprise, kind and honorable feeling. After having established himself comfortably in Van Diemen's Land, he returned to his native Island and purchased a Vessel, manned her chiefly with his own brothers, bold and hardy islesmen, and conveyed his parents and whole family to his residence in the Colony. He then betook himself to traffic with the Dutch Settlements and other Islands in these Seas, in course of which he fell into the hands of the savages of New Zealand.

Character and career of H. McLaine.

The fate of this young Man and his Brother excites deep feeling in this part of the Highlands, where they are known and respected; his Aged parents and family in Van Diemen's Land have lost in them their chief support; yet it may have occurred to no one to make known the melancholy condition of these valuable young men in the quarter where the power of setting measures of redress on foot is greatest, and where I do not believe the inclination to be least. A word from your Lordship may under providence lead to their release through the instrumentality of British Cruisers the Eastern Seas, the Members of the Van Diemen's Land Government, or in other ways known to you; And, surely their liberation through your Lordship's interference, at the same time that it would gratify your feelings of humanity and delight, every well constituted mind would also tend to enhance the paternal character of the British Government and the dignity of the British name; for it would shew that the protecting care of the former over all its subjects extends to the remotest regions, and that the privilege of a British subject is in modern, as much as that of the Roman Citizen was in ancient times, an immunity from injustice and oppression among natives, savage or civilized.

Request for action to secure rescue from Maoris.

1835.
14 March.

For further information, I must refer to my Brother and to the relatives and friends of the unhappy men in Van Diemen's Land. I trust to your Lordship's benevolence to plead my apology for this intrusion on your valuable time.

I have, &c.,

ANGUS McLAINE,

Minister of Ardnamurchan.

SIR RICHARD BOURKE TO RIGHT HON. T. SPRING RICE.
(Despatch No. 38, per ship Red Rover; acknowledged by
lord Glenelg, 11th October, 1835.)

22 March.

Sir, Government House, 22 March, 1835.

Removal of
E. A. Slade
from office as
police
magistrate.

It will appear by the Quarterly Schedule of changes in appointments held under this Government between the 1st Octr. and 31st Decbr. last, transmitted with my Despatch of the 11th ultimo, No. 25, that Mr. Ernest Augustus Slade was removed from the office of 3rd Police Magistrate of Sydney from the 1st November last.

I would not have thought it necessary to make any further communication of the facts, which led to this step, but that Mr. Slade, notwithstanding his having offered his resignation, which was accepted, seems now disposed to make out a case against this Government for having removed him.

I have therefore the honor to transmit for your information in the event of this subject being otherwise brought under your notice all the correspondence relating to it, particularly calling your attention to the proceedings, which took place before Mr. Justice Burton, as reported in the letter of the Crown Solicitor dated 30th October last, and to the statement of my reasons for not continuing Mr. Slade in office, contained in the Colonial Secretary's Letter addressed to him by my Direction on the 4th November last.

In the correspondence will be found a letter from Mr. Slade, addressed to me and marked private and confidential, to which I replied in my own hand under a similar restriction. As however Mr. Slade has referred to the letter in a communication, which he evidently means to make public, I think it right to transmit copies of both for your information.

I have, &c.,

RICHD. BOURKE.

[Enclosures.]

[Copies of these papers will be found in a volume in series II.]

EARL OF ABERDEEN TO SIR RICHARD BOURKE.

(Despatch No. 32, per ship Marquis of Huntley; acknowledged by Sir Richard Bourke, 11th January, 1836.)

1835.
23 March.

Sir, Downing Street, 23d March, 1835.

I have the honor to transmit to you, herewith, the enclosed copy of an Instruction which, by the direction of the Lords Commissioners of the Treasury, the Board of Audit have prepared for the guidance of Public Accountants in the Colonies, in regard to the payment of Pensions and retired Allowances; and I have to desire that you will communicate the same to the Treasurer of the Colony under your Government, with directions that its provisions may be strictly observed.

Transmission
of instructions.

I have further to desire that you will furnish a copy of this Instruction to the Auditor General, and Instruct him to surcharge any payments made in future in respect of Pensions or retired Allowances, which are not supported in the manner described in the Instructions.

You will have the goodness to report to me the precise time when this Instruction is received by you, and communicated to the Officers whom it concerns.

I am, &c..

ABERDEEN.

[Enclosure.]

INSTRUCTIONS to be observed by the Colonial Accountants hereafter enumerated.

TREASURER, Ceylon; Treasurer, Mauritius; Colonial Secretary and Accountant, Sierra Leone; Collector and Accountant, Gambia; Treasurer, Trinidad; Recr. General, British Guiana; Treasurer, St. Lucia; Treasurer, New S. Wales; Treasurer, Van D. Land; Treasurer, Western Australia; Treasurer, Cape of Good Hope; Treasurer, Malta; Receiver Genl., Gibraltar.

Instructions re
payment of
pensions and
retired
allowances.

Previously to making any payment in future, in respect of Pensions or retired Allowances, you will take care to inform yourself whether any condition may have been attached to the original Grant of such Allowance or Pension, with reference to the employment, emolument, condition, residence, or otherwise of the party claiming the same, and in all cases where the payment of the Allowance is to be contingent upon any particular condition, you will require and produce as a Voucher in support of your Accounts a sufficient Declaration, Certificate, or other proof, that the condition has been complied with, and that the Allowance or Pension, claimed by the Party, had consequently become properly due, and you will withhold the payment of the Pension or Allowance until such Document shall be produced.

1835.
23 March.

SIR RICHARD BOURKE TO RIGHT HON. T. SPRING RICE.
(Despatch No. 39, per ship Red Rover; acknowledged by
lord Glenelg, 28th August, 1835.)

Sir, Government House, 23 March, 1835.

Request by
F. Fyans for
appointment
as police
magistrate and
land grant.

I have the honor to forward a letter from Captain Fyans, of the 4th (or K.O.) Regt., soliciting at your hands the appointment to a Police Magistracy and a grant of land in New S. W. in consideration of his exertions in quelling the disturbance at N. Island, described in my Despatch of 15 Janry. last, No. 6. The principal command was then exercised by him in consequence of the illness of the Commandant, Lt. Col. Morrisset, and I expressed myself fully satisfied with his conduct on the occasion. I have it in contemplation, at the period when it will be necessary to relieve the officer of the 17th Regiment now at Moreton Bay, to send Captn. Fyans there with a company of the 4th Regiment, which will secure to him a Salary of £300 a year and some other advantages, during the time he remains in the Command. I have intimated this intention to Captn. Fyans, but have not given him any reason to expect that he will obtain either the appointment or the land which he now applies for.

I have, &c.,

RICHD. BOURKE.

[Enclosure.]

[A copy of this letter is not available.]

SIR RICHARD BOURKE TO RIGHT HON. T. SPRING RICE.
(Despatch No. 40, per ship Red Rover; acknowledged by
lord Glenelg, 27th October, 1835.)

24 March.

Sir, Government House, 24 Mar., 1835.

Application by
H. Jeanneret
for land grant.

I have the honor to forward a letter from Dr. Henry Jeanneret, a Physician who has practised in this Colony for some years, but chiefly in the capacity of a Dentist. He encloses the Copy of a Statement he has addressed to me claiming land under the old regulations pursuant to letters, which he states that he brought out to Genl. Darling, but which were mislaid, and, without, as he says, any neglect on his part, were never acted on.

Not having seen the letters he refers to, I am unable to pass an opinion on the merits of his case; but, as he states that he received them from the hands of Mr. Hay, their record may probably be discovered or their purport ascertained through his means.

I transmit a note of Sir George Murray to General Darling enclosing a Memorandum from Mr. Fergusson, being the only communication to be found here respecting Dr. Jeanneret from any Member of His Majesty's Governmt.

1835.
24 March.

I have, &c.,
RICHD. BOURKE.

[Enclosure.]

[A copy of this letter is not available.]

EARL OF ABERDEEN TO SIR RICHARD BOURKE.
(Despatch No. 33.)

25th March, 1835. 25 March.

[A copy of this despatch will be found on page 753.]

SIR RICHARD BOURKE TO SIR GEORGE GREY.
(Despatch per ship Red Rover.)

Sir, Government House, 25 March, 1835.

In compliance with the instruction conveyed by your letter of the 6th Sept. last, I have the honor to transmit a certificate of the burial of the late John Horsley, Esqre., Coroner for the District of Liverpool in this Colony. I have, &c.,

Certificate re
burial of
J. Horsley.

RICHD. BOURKE.

EARL OF ABERDEEN TO SIR RICHARD BOURKE.
(Despatch No. 34, per ship Canton; acknowledged by Sir Richard Bourke, 26th December, 1835.)

Sir, Downing Street, 31st March, 1835.

31 March.

I transmit to you, herewith, an extract of a Report from the Commrs. of Audit, relative to certain Payments for the repair and construction of Public Buildings, etca., in the Colony under your Government, which figure in the Accounts of D. A. Commissary General Laidley from the 1st January, 1833, to the 31st March, 1834; and I have to request that you will take care in future to transmit to this Department ample information as to the circumstances, under which you may have been led to incur Charges of the nature referred to in the Report of the Commissioners of Audit, and that you will, also, not neglect to include such payments in the Quarterly Schedules of new Appointments, Payments of a special nature, etca., which you, from time to time, transmit for the information of the Lords Commissioners of the Treasury, taking care, at the same time, to refer to the date of the Report, which you may have made to the Secretary of State in each case. I am, &c.,

Queries
by audit
commissioners.

Instructions for
transmission of
full reports.

ABERDEEN.

[Enclosure.]

1835.
31 March.Payments
for public
buildings and
colonial marine
queried by audit
commissioners.EXTRACT of a Report from the Board of Audit, dated 16th March,
1835.

WE beg leave to state that, in the course of examination of those parts of the N. S. Wales Accounts of D. Com. Genl. Laidley, from the 1st Jan'y., 1833, to 31 March, 1834, which relate to Disbursements on account of Convict and Colonial Services defrayed from the Military Chest, we have found several payments exceeding the sum of £200 respectively for the repairs or construction of certain Public Buildings, and for repairs required for the service of the Colonial Marine.

The Vouchers for these payments are regular and satisfactory, and it appears that in every case due regard was had to competition by means of Advertisements in the Colonial Gazettes; but, as we have not been informed whether these services were brought under the notice of H.M. Govt., and as those relating to N. S. Wales are not included in the Quarterly Schedules of new Appointments, Payments of a special nature, etca., transmitted from time to time by the Governor of the Colony, and forwarded to us by your Lordships, we beg leave to subjoin a Statement of the payments in question for your Lordship's information, viz.:

	£	s.	d.
Expense of erecting a Kitchen and Baths at the Hospital at Liverpool agreeably to Contract entered into on 22d Decr., 1831, with Mr. Forbes	516	5	0
Expense of Repairs required at the Govt. Observatory at Paramatta agreeably to Contract entered into on 17th May, 1832, with Messrs. Byrnes and Gooch	469	17	6
Expense of Repairs required at the Female Factory at Paramatta, agreeably to Contract entered into on the 14 June, 1832, with Mr. E. Maruin .	450	0	0
Expense of completing an unfinished Watchhouse in Bathurst St., Sydney, agreeably to Contract entered into on 13th Decr., 1832, with Messrs. Mines and Bowers	221	9	0
Expense of erecting a Court House and 4 Solitary Cells in the District of Upper Williams River, agreeably to Contract entered into on 4 June, 1833, with Mr. D. F. Mackay	211	5	0
Expense of repairing the Govt. Brig, Governor Phillips, amounting to £774 8s. 8d. agreeably to Contract entered into on 5 Septr., 1833, with Mr. J. H. Bass and defrayed as follows:—			
In Money	£501	14	8
In Copper and other Articles supplied from the King's Stores, amounting to	272	14	0
	<hr/>		
	774	8	8

EARL OF ABERDEEN TO SIR RICHARD BOURKE.
(Despatch No. 35, per ship Canton.)

1835.
1 April.

Sir, Downing Street, 1st April, 1835.

With reference to the communications, which were addressed to you on the 15th and 25th of November last, relative to the proposed arrangement of the Ordnance and Commissariat Establishments in the Australian Colonies, I now transmit to you, for your information and guidance, a copy of a further letter from the Secretary to the Treasury, enclosing a copy of a Treasury Minute, containing the substance of the Instructions to be issued to the Ordnance and Commissariat Officers to be employed. The previous communications from this Department will have so fully placed you in possession of the views and wishes of His Majesty's Government upon this subject, that it is only necessary for me further to enjoin you to lend every assistance in your power in carrying into effect the arrangement in question in its various branches, and particularly with reference to the proposed transfer of those Officers hitherto attached to the Civil Engineer's Department, whose services may be made available under this new arrangement in the Ordnance Department.

Transmission of instructions re arrangement of ordnance and commissariat establishments.

You will also observe that, altho' it has been deemed sufficient to send, in the first instance, only one officer of Engineers to each of the Colonies of New South Wales and Van Diemen's Land, it is considered by no means improbable that it may hereafter be found necessary to add to that number; and His Majesty's Government will be prepared to take this subject again into consideration, when the reports of the Officers now to be despatched to the respective Colonies shall have been received.

Probable increase in number of officers of engineers.

I am, &c.,

ABERDEEN.

[Enclosure.]

HON. J. STEWART TO UNDER SECRETARY HAY.

Sir, Treasury Chambers, 10 March, 1835.

I am commanded by the Lords Commissioners of His M.'s Treasury to transmit to you a Copy of Their Lordships' Minute of 13th Inst., and Copies of Letters from the Board of Ordnance of 12th and 20th Ult., on the subject of the proposed arrangement of the Ordnance and Commisst. Establt. in the Australian Colonies, in order that they may be laid before the Earl of Aberdeen for his information with reference to the previous communication with his Lordship's Dept. on the subject of the arrangements to which they relate; and I am to request you will move His Lordship to cause such further Instructions to be conveyed to the respective Govrs. of N. S. Wales and V.D.L. as may be necessary, in addition to the directions to be addressed to them from this Dept., relating to the Commisst. Estabts., for their guidance in carrying these arrangements into full effect.

Request for transmission of instructions.

1835.
1 April.

You will at the same time observe to the Earl of Aberdeen that, although my Lords have considered it sufficient in the first instance that only one officer of Engineers shd. be sent to each Colony, they conceive it by no means improbable, and they will be prepared to have this subject again under consideration, when the Reports of the Officers now to be dispatched shall have been received.

I am, &c.,
J. STEWART.

[Sub-enclosure No. 1.]

COPY OF A TREASURY MINUTE DATED 13 MARCH, 1835.

READ three letters from the Secretary to the Ordnance dated 12th, 20th and 18th Ulto.

My Lords resume the consideration of the arrangements relating to the Military and Convict Buildings and Stores at New S. Wales and V. D. Land, and read the Minutes of 19th Septr. and 14th Novr. last on this subject.

Write to the Secretary to the Ordnance desiring he will acquaint the Master General and Board that my Lords concur with them in opinion that it will be sufficient in the first instance to station one officer of the Royal Engineers in each Colony; and with reference to this diminution of the number originally suggested by the Inspector General of Fortifications and likewise to the facilities that the existing Establishments in the Colonies will afford for obtaining Assistants both in the Store and Building Branches of the Dept., My Lords conceive it will not be necessary to send from this Country more than one Storekeeper for each Colony, and one Clerk of the Works for each Colony, leaving the additional Storekeeper at Bathurst, if such an Appointment should be found indispensable, and the Clerks under the Clerks of the Works for selection and appointment in the Colonies.

With these reservations, My Lords request that no time may be lost in dispatching the several officers, furnished with the requisite Instructions for taking immediate charge of the Military and Convict Buildings and Stores, and conducting the business relating thereto according to the Ordnance System and regulations. In furtherance of this object, it will be one of the first duties of these Officers to consider, in concert with the Officers respectively administering the Govts. and holding the Military Commands in the Settlements, the Estabts. that will be required, with every regard to the strictest economy, for carrying on the services in question; and to select, from the present Commissst. Store or Colonial Engineer's Depts., the Individuals best qualified for that purpose. In submitting the arrange'ts that may be thus made for confirmation, the Officers will specify the situations the parties selected may have previously filled, and the rates of Emolument they enjoyed, which rates are not in any case to be increased; and the Officers will not omit to avail themselves, as they may see occasion, of any assist'ce that can be derived from the Commissariat Establishments in the Custody or distribution of Stores on any of the Minor detached Stations.

My Lords would further desire that the Ordnance Officers may be instructed to make with the least possible delay such Reports upon the Buildings and Stores of which it will be their duty to take charge, as will put the Master General and Board and His M.'s Govt. in possession of full information respecting the state and capacity of all the Buildings, and the purposes to which they are

Treasury
minute re
establishment
of branch of
ordnance
department.

appropriated, and also respecting the quantities and descriptions of Articles that may be in Store, and the state and condition, and for what Branches of the Public Service they may be required. Upon receiving these Reports, My Lords will have under consideration the arrangements it may be proper to make for providing for the charge of each distinct head of service; and in the meantime the Officers in charge of the Commissst. will be authorised to make advances for the payment of the Ordnance Establtts. and for the Barracks and other Services under the charge of those Estabts., and to enter into contracts for the performance of Works or for the purchase of Stores and Materials, at the requisition of the Ordnance Officers, under the regulations observed in these respects on other Colonial Stations. But my Lords request that care may be taken by the Master General and Board that the Instructions to their officers do not empower them to undertake any new Works or Buildings or any extensive alterations or additions to existing Works and Buildings, without the previous sanction of the proper Authorities in this Country.

My Lords concur in the observation of the Inspector General of Fortifications that such controul should be reserved over any prominent Military positions, which may be considered suitable for the defence of the principal Harbours or for other Military purposes, as shall enable the Crown at any time to resume them for the Public Service; and the Ordnance Officers should be apprized that it will be their duty to submit to the respective Governors any requisite information and suggestions on this subject; and likewise that they must be prepared to afford their advice and assistance in the execution of any Works undertaken by the Colonial Govts., or in taking charge of any Stores it may be found necessary to keep in Depot for the service of those Govts.

Write to the respective Officers in charge of the Commissariat at N. S. Wales and Van D. Land, acquainting them that it has been determined by His M.'s Government, that, from and after the 1st July next, the Charges hitherto defrayed from the Military Chests in those Settlements for the Police Estabts., for Gaols and for the Colonial Marine, are to be provided for from the Colonial Treasuries; the Charges immediately connected with the Custody and Superintendance of the Convicts, the Penal Stations, the Medical Estab'ts, and the maintenance of Vessels employed in communicating with the Penal Stations and the detached Military Posts, still continuing to be defrayed, with the Military Expend're, by the Commissariat Dept. It has likewise been determined that the Military Works and Buildings and the Convict Buildings, and the Ordnance and other Military Stores, as well as the various articles kept in store for the service of the Convicts, should be placed under the charge of the Officers of the Ordnance Dept., who are forthwith to be dispatched to the Colonies. Upon all these points, the Commissariat Officers will receive more specific and detailed directions from the Officers administering the respective Governments and Commanding the Troops; and it only appears to my Lords to be necessary, in thus apprising them of the general nature of the intended arrangements, to desire they will take care that any disburse'ts that may be casually made from the Military Chests for services, to be provided for after the 1st July by the Colonial Treasuries, are duly repaid to the Chests, and to acquaint them that, upon the arrival of the Officers of the Ordnance Dept., they are to consider themselves authorised to make advances for

1835.
1 April.

Treasury
minute re
establishment
of branch of
ordnance
department.

1835.
1 April.

Treasury
minute re
establishment
of branch of
ordnance
department.

the service of that Dept., or to enter into Contracts or agreements for the execution of Works or for the purchase of Stores at the requisition of the Ordnance Officers, and to make any requisite payments for these purposes under the same regulations and limitations as are established and observed in these respects on other Colonial Stations, under the Instructions conveyed to the Officers of the Commissst. by the Circular Letters of this Board, of which Copies will accompany these communications. In arranging the Ordnance Establt., such subordinate Storekeepers, Clerks of the Works, or other persons, now attached to the Commissst. or to the Colonial Store Depts., as may be required, will be selected for employment; and the Commissaries will thereupon proceed, under the direction of Officers Commanding, to make a careful revision of their own Depts., with reference to the more limited duties with which they will be charged, and in order that every practicable reduction may be effected therein; in doing which, they will be guided by the strictest regard to economy that may be consistent with the efficient performance of the Public Service, and they will report for my Lords' Consideration the arrangements that may be made, which are to be considered as provisional until they receive My Lords' Confirmation.

Transmit to the Officers in charge of the Commissariat of Accounts in New S. Wales and Van D. Land copies of these Communications to the Commissaries of Stores for their information.

Write to the Officers Commanding the Troops at N. S. Wales and Van D. Land, acquainting them that, in furtherance of the arrangements which will be communicated to them by the Secretary of State, My Lords desire that, upon the transfer of the Military and Convict Buildings and Stores to the Ordnance Officers and the formation of the Ordnance Estabts., they will lose no time in instituting a complete revision of the Commissst. Depts. under their respective Orders, with reference to the greatly diminished Duties those Depts. will then have to perform; and that they will report for My Lords' Consideration the numbers and ranks of the Officers and Clerks they may propose to retain in that Branch of the Service. At the same time, apprise the Officers Commanding that Instructions to a similar purport have been transmitted to the Officers in charge of the Commissariat.

Transmit copies of this Board's Minute of 19th Sept. last, of Mr. Stephen's letter of 16th Oct. last, and the Minute of 14th Novr. thereon, and of this Minute to the Commrs. of Audit for their information and guidance.

[Sub-enclosure No. 2.]

MR. R. BYHAM TO HON. J. STEWART.

Sir,

Office of Ordnance, 12 Feby., 1835.

Letter
acknowledged.

I have the honor by the Command of the Master General and Board of Ordnance to acknowledge the receipt of your letter dated the 21st Novr. last, referring to the correspondence wh. has taken place on the subject of an Ordnance Establt. in the Australian Colonies; and stating that His M.'s Govt. have decided upon the adoption of arrangements, under which the charge of the Military Buildings and Stores, and of the Buildings occupied by the Convicts, and the Stores and Clothing required for the use of the Convict Estabts., the Expenditure relating to which services will continue to be borne by this Country, should be placed under the charge of officers of the Ordnance Dept.

The Master General and Board have fully considered the various points to which their attention is drawn by your letter, and have consulted the Inspector General of Fortifications and the Chief Clerks under the Clerk of the Ordnance and the principal Store-keeper, whose respective reports I have the honor to enclose Copies of for the information of the Lords Comurs. of His M.'s Treasury, and in which I am to state the Master General and Board entirely concur, excepting that part of the Inspector General's Report, which relates to the number of Engineer Officers to be sent out; and on that point the Master General and Board have requested him to reconsider his Report, they being of opinion that two only will be necessary in the first instance instead of three. A further communication will therefore be made to you on that question; and upon receipt of the concurrence of their Lordships in the arrangements proposed, the Master General and Board will take immediate steps for carrying them into effect.

1835.
1 April.

Proposal for
two engineer
officers.

I have, &c.,
R. BYHAM.

[Sub-enclosure No. 3.]

MR. R. BYHAM TO HON. J. STEWART.

Sir, Office of Ordnance, 20 Feby., 1835.

Referring to my letter of the 12th Inst. on the subject of the proposed Ordnance Estabts. in the Australian Colonies, and especially to that part of it in which I stated that a further communication shd. be made to you in respect to the number of officers of the Corps of Royal Engineers to be sent out,

I have the honor, by command of the Master General and Board of Ordnance, to transmit to you for the information of the Lords Commissioners of His M.'s Treasury the enclosed copy of a further Report from the Inspector General of Fortifications, in which the Master General and Board concur, and according to which the number of Engineer Officers to be selected for the proposed service will be limited to *two* in the first instance.

Arrangements
for two engineer
officers.

I have, &c.,
R. BYHAM.

EARL OF ABERDEEN TO SIR RICHARD BOURKE.

(Despatch No. 36. per ship Canton.)

Sir, Downing Street, 2d April, 1835.

2 April.

In consequence of the enclosed letter, which has been addressed to His Majesty by Titori, a Chief of New Zealand, and of the friendly feeling, which it is stated that that Chief has always shewn to the English, His Majesty has been pleased to direct that the accompanying suit of Armour should be prepared as a mark of His consideration for that Chief. You will, therefore, take measures for having the Armour, together with the enclosed letter addressed to Titori, conveyed to Mr. Busby, the Resident at New Zealand, in order that they may be presented to the Chief in whatever manner may be most calculated to gratify his feelings.

Suit of armour
for Maori chief.

I am, &c.,
ABERDEEN.

[Enclosure No. 1.]

[A copy of this letter is not available.]

[Enclosure No. 2.]

1835.
2 April.

THE Earl of Aberdeen, one of His Majesty's Principal Secretaries of State, to His Highness Titore.

Friend and Brother.

Thanks to
Maori chief
for services.

I have received the Commands of my most gracious Sovereign King William the Fourth to thank you for your letter brought to him by the hands of Captn. Sadler, Commander of His Majesty's Ship the "Buffalo," and for the assistance which you rendered to him in obtaining the Articles for which that Ship was expressly sent to your country.

King William will not forget this proof of your Friendship, and he trusts that such mutual good offices will continue to be interchanged between His Majesty's Subjects and the Chiefs and People of New Zealand as may cement the Friendship already so happily existing between the two Countries, and advance the Commercial Interests and wealth of both.

Present of suit
of armour.

The King, my master, further Commands me to thank you for your Present, and, in return, he desires you will accept a suit of Armour, such as was worn in former times by His Warriors, but which are now only used by His Own Body Guard.

This Letter, as well as His Majesty's Royal Present, will be conveyed to you through James Busby, Esquire, His Majesty's Authorized Resident at the Bay of Islands, whose Esteem and Friendship you will do well to cultivate, and, who, in his turn, will do all in his power to promote your welfare and that of your Countrymen.

I am, Your Friend and Brother,

ABERDEEN.

Colonial Office, London, 31 January, 1835.

EARL OF ABERDEEN TO SIR RICHARD BOURKE.
(Despatch No. 37, per ship Canton.)

15 April.

Despatch
acknowledged.

Sir,

Downing Street, 15th April, 1835.

I have to acknowledge the receipt of your Dispatch No. 87 of the 13th of September last, enclosing a Memorial from Mr. Caleb Salter, praying to be allowed a grant of Land under the regulations in force in the Colony prior to the 30th of June, 1831, before which date he had made his application for a Grant and had verified his Capital before the Land Board.

Application for
land grant by
C. Salter.

Mr. Salter's application for land appears to have been addressed to the Land Board on the 24th of March, 1831; on the 4th of April, he received his summons to appear before that Board and prove the amount of his Capital. This he seems to have satisfactorily done, and, as he states, not doubting that he should be duly placed in possession of his Land, he proceeded to make the necessary arrangements for entering upon his grant; when in August following he was informed, in answer to an application which he addressed to the Board, that, in consequence of the then recent regulations, Land could only be obtained by purchase; and,

on the 8 of February following, he was made for the first time acquainted with the fact that he had been refused his Grant on account of his being engaged in business.

1835.
15 April.

It appears to me evident that the Memorialist, whilst carrying on the business of a Publican, was unqualified to receive land; and further that, as no promise or assurance had been made to him by the Government prior to the date at which the new Regulations came into operation, he can only now be entitled obtain land under the provisions of those Regulations. Any relaxation of the general rule in his favor would in all probability lead to various applications from other quarters which, a precedent having been established, it would be difficult to refuse. I cannot, however, help remarking that, if the statements contained in this Memorial are correct, and, as you have suffered them to remain uncontradicted, it is to be presumed that they are so, great neglect was shewn by the Land Board in dealing with this case. It was not, as Mr. Salter states, until nearly four months after the date of his application to the Board, that he was informed of his being precluded by recent regulations from receiving his grant; and, on the following Month, he was made acquainted with the fact that it was owing to his being engaged in business in the Colony, that he had been refused the land; whereas he states that that circumstance was known to the Board when he made his first application, and that he was fully prepared forthwith to employ his Capital in the cultivation of his grant. Under these circumstances, I cannot but consider that the interests of the Memorialist have suffered from a want of due consideration on the part of the Land Board.

Refusal of application.

Criticism of delay by land board.

I am, &c.,

ABERDEEN.

EARL OF ABERDEEN TO SIR RICHARD BOURKE.

(Despatch No. 38, per ship Canton.)

Sir,

Downing Street, 16th April, 1835.

16 April.

I have to acknowledge the receipt of your Dispatch No. 102 of the 1st of October last, enclosing a Petition from the Trustees of St. Andrew's Scotch Church at Sydney praying for the sanction of Government to the appointment of the Revd. John McGarvie as Second Presbyterian Chaplain at Sydney, with such Salary as might be deemed sufficient for his maintenance.

Despatch acknowledged.

I gather from your dispatch that the idea of building a second Presbyterian Church at Sydney, which has led to this application for an additional Clergyman, has arisen, not from the insufficiency of one Church to accommodate the whole number of that Body resident there, but from a spirit of disunion which has

Schism in Presbyterian church.

1835.
16 April.

Refusal to
appoint Revd.
J. McGarvie
as chaplain at
Sydney.

sprung up amongst them; and, as you further report your opinion that an addition to the number of Presbyterian Chaplains is likely soon to be required to supply the wants of other Districts of the Colony, I do not feel that I should be justified in complying with the prayer of the Memorial, or even in sanctioning the allowance, which Mr. McGarvie now receives being continued to him, if any stronger claim should be shewn to exist by the Presbyterian Inhabitants in any other District of the Colony.

I am, &c.,
ABERDEEN.

EARL OF ABERDEEN TO SIR RICHARD BOURKE.
(Despatch No. 39, per ship Canton.)

17 April.

Approval of
temporary
clerks in office
of surveyor-
general.

Sir, Downing Street, 17 April, 1835.

I have to acknowledge the receipt of your Dispatch No. 103 of the 5th of October last, enclosing the report of a Board appointed by you for the purpose of enquiring into the correctness of a representation, which you had received from the Surveyor General with regard to the necessity of his being allowed some additional assistance in the Clerical branch of his department to enable him to bring up some arrears, and to complete and restore some of the records of his office.

Having duly considered that report, it appears to me that the facts therein stated are sufficient to shew the necessity existing for the temporary aid required by the Surveyor General; and I, therefore, approve of your having added four Clerks to the strength of his Department for the period of one year.

I am, &c.,
ABERDEEN.

RIGHT HON. CHARLES GRANT TO SIR RICHARD BOURKE.
(A circular despatch per ship Canton.)

18 April.

Appointment
of right hon.
C. Grant as
secretary of
state.

Sir, Downing Street, 18 April, 1835.

Upon the Resignation by the Earl of Aberdeen of the Seals of this Department, His Majesty has been graciously pleased to place them in my hands.

In the relation which has thus been established between us, it will be my constant desire to communicate with you on all subjects connected with the Administration of the Affairs of the Colony under your Government, in the Spirit of confidence so essential to the success of His Majesty's Service in that part of His Majesty's Dominions.

I am, &c.,
C. GRANT.

UNDER SECRETARY HAY TO SIR RICHARD BOURKE.
(Despatch per ship Canton.)

1835.
18 April.

Sir, Downing Street, 18th April, 1835.

I am directed by the Earl of Aberdeen to transmit to you for your information a copy of a Letter, which has been received at this Department from Mr. T. Potter Macqueen relative to a portion of Land, which he is desirous of obtaining at the Water Side at the Harbour at Port Jackson, together with the answer which has been returned to that Communication.

Transmission
of letter from
T. P. Macqueen.

I am, &c.,
R. W. HAY.

[Enclosure No. 1.]

MR. T. POTTER MACQUEEN TO RIGHT HON. E. G. STANLEY.

Sir, Segenhoe, N. S. Wales, 1st October, 1834.

In the year 1824, when I accepted a grant of Land in this Colony, I applied to Earl Bathurst for a Location of 10 Acres in Sydney Cove for the purpose of erecting Store Houses for the convenience of the Estate. By his Lordship's desire, Mr. Wm. Horton wrote me a letter which I presume is copied in the Office, Oct. 22d, 1824, informing me that Earl Bathurst could give me no *precise orders* from not being aware of what might be required for the uses of Govt., but that directions would be given to the Govr. to render me every possible attention and assistance.

Application by
T. P. Macqueen
for land grant
at Sydney cove.

In pursuance of this assurance, my Agent, Mr. P. McIntyre, upon his arrival in April, 1825, made an application for ten acres of Land in Sydney Cove, and was informed by Major Ovens (private Secretary) that all the land therein was located or required for Public Service.

On receiving this information, in Decr., 1825, I again applied. I was then assured that, if I could point out any location, which would not come under the above description, that the original promise held out to me would be observed. I then communicated this statement to Mr. McIntyre, and requested him to furnish me with correct Maps of reference. He consequently, at a very heavy expense, sent me a Map of the River Hunter, and another of the entire Harbour, with its bearings, depth of water, anchorage ground, &c., complete. These Maps you may remember at the time when you were filling the Office of Under Secretary, and Mr. Huskisson entreated me to allow them to be copied for the use of the Office. The Map of the Hunter was returned to me with a letter of thanks from yourself, but that of the Harbour was retained in your Office, though I often applied for it. The views of the Map, however, proved that were above 100 places in the Harbour, which would suit my purpose, and I directed Mr. McIntyre to renew my original request. At that period, however, I was obliged to remove that person from my Estab't, and his Successor, Mr. Sempill, unfortunately in his letter made use of the original term *Sydney Cove* and received merely the same reply, which had formerly been given.

On my arrival in the Colony, I soon saw the mistake I had committed. I had supposed Sydney Cove and Port Jackson were synonymous terms, whereas I find the Cove contains but a very small portion of the Harbour, and certainly what it does contain has been most properly reserved.

Confusion of
terms "Sydney
cove" and
"Port Jackson."

1835.
18 April.
Request for
land grant at
Port Jackson.

My present object then is to request that, in the spirit of the original intention of the Home Govt., I may have *some* spot within the Harbour, whereon I may have Stores, so as to preclude the present heavy expenses of hiring Merchants' Buildings for my Wool and other Articles of export, and my numerous Goods imported from the English Market. The Surveyor General has lately marked out several Sections of Rocky ground of four acres each between Farm Cove and Benelong Point to be disposed of, and I therefore venture to solicit an Order from yourself to Genl. Bourke to put me in possession of one of these spots. I have announced to His Excellency my intention of making this application to yourself, and have requested that one of these locations be reserved until your pleasure shall be made known to him. I have, &c.,

T. POTTER MACQUEEN.

[Enclosure No. 2.]

UNDER SECRETARY HAY TO MR. T. POTTER MACQUEEN.

Sir, Downing Street, 18 April, 1835.

Letter
acknowledged.

The Earl of Aberdeen has had under his consideration your letter addressed to Mr. Stanley under date of the 1st of October last, with reference to the Grant of Land which you are desirous of obtaining on the water side within the Harbour of Port Jackson.

It appears that, in the year 1825, your Agent Mr. McIntyre made an application to the Local Govt. for ten acres of Land at Sydney Cove, and was informed that all the Land at that spot was either occupied or was required for public purposes. No application seems to have been made by him for any allotment of Land differently situated, but which might have suited your particular purpose; and the person whom you afterwards appointed to succeed Mr. McIntyre, misconceiving the instructions which you sent to him, simply repeated the application made by his Predecessor, and naturally met with a similar refusal. You now state that the Surveyor General has lately marked out several Sections of rocky ground, of four acres each, between Farm Cove and Benelong Point, to be disposed of, and you request that an order may be given to Sir Richard Bourke to place you in possession of one of those spots.

In reply, I am directed by His Lordship to observe that the inconvenience, which you have experienced, has arisen entirely from a want of understanding and of accuracy on the part of your Agents, and not from any act of the Government. Whatever ground may be available for your purpose, it is still open to you to purchase subject to the general Regulations in force; but his Lordship cannot direct a departure in your case from those Regulations, to which it has been found essentially necessary strictly to adhere in every instance.

Refusal
to grant
exemption from
regulations.

I am, &c.,
R. W. HAY.

RIGHT HON. CHARLES GRANT TO SIR RICHARD BOURKE.

(A circular despatch per ship Canton.)

Sir, Downing Street, 20 April, 1835.

I have the honor, herewith, to transmit to you an Order made by His Majesty in Council, in pursuance of the Statute of the 3d and 4th year of His Majesty's Reign Cap. 5, by which

20 April.
Admission of
Danish vessels
to trading
privileges.

Order His Majesty has been pleased to admit Danish Vessels to the exercise of the Privileges to which, under that Statute, certain Foreign Ships are entitled in the Ports of the British Possessions abroad.

1835.
20 April.

Admission of Danish vessels to trading privileges.

I am, &c.,
C. GRANT.

[Enclosure.]

[A copy of this order is not available.]

RIGHT HON. CHARLES GRANT TO SIR RICHARD BOURKE.

(Despatch No. 1, per ship Canton.)

Sir, Downning Street, 20th April, 1835.

I have to acknowledge the receipt of your despatch No. 81 of the 7th of September last, enclosing a copy of a Letter addressed to you by the Chief Justice and one of the Judges of the Supreme Court, pointing out the necessity of some special provision being made for the trial of offences committed at the Penal Settlement of Norfolk Island; and I trust that the Act of Parliament, which was passed during the last Session, and which accompanied Mr. Spring Rice's Dispatch No. 15 of the 1st of August last, will be found amply sufficient for the purposes contemplated.

Administration of justice at Norfolk Island.

I am, &c.,
C. GRANT.

RIGHT HON. CHARLES GRANT TO SIR RICHARD BOURKE.

(Despatch No. 2, per ship Canton.)

Sir, Downning Street, 24th April, 1835.

I have received your Dispatch No. 91 of the 17th of September last, in which you report that you had deferred carrying into effect the arrangement suggested by the Commissioners of Colonial Enquiry of abolishing the Office of Collector of Internal Revenue, and transferring the duties of that Office to the Colonial Treasurer.

24 April.

Despatch acknowledged.

I am fully aware of the importance of making sufficient provision for the collection of the large arrears due to the Government from the sales of Crown Lands and from Quit Rents; and, if those arrears are at present so extensive as to render it impossible for the Treasurer to undertake the collection of them with advantage to the Public Interests, I see no alternative but to sanction your retaining the Services of the Collector until the business of that particular Department shall have sufficiently reduced to admit of its being transferred to the Treasurer, which I trust may be done with as little delay as possible.

Approval of retention of collector of internal revenue.

I am, &c.,
C. GRANT.

1835.
27 April.

RIGHT HON. CHARLES GRANT TO SIR RICHARD BOURKE.
(Despatch No. 3, per ship Canton.)

Sir, Downing Street, 27th April, 1835.

Despatch
acknowledged
re petition from
settlers at
Hunter river.

I have received your Dispatch No. 93 of the 19th of September last, enclosing a copy of a Petition addressed to His Majesty, which you state to have been clandestinely prepared by certain Settlers in the Hunter's River District, and to be in the course of obtaining signatures, containing representations against the measures pursued by your Government with respect to the control and management of the Convict Population. I have also received your dispatch marked Separate of the same date transmitting a Pamphlet written in refutation of the allegations of the Petitions.

As the Petition itself has not been sent home to this Department, it is unnecessary that I should enter into the subject of it at present; but, when it does arrive, I shall be glad to receive from you those proofs, which you state that you are prepared to furnish of the falseness of the assertions contained in it.

I am, &c.,
C. GRANT.

SIR RICHARD BOURKE TO SECRETARY OF STATE.

(Despatch No. 41, per ship Venus; acknowledged by lord Glenelg, 11th November, 1835.)

Sir, Government House, 27 April, 1835.

Despatch
acknowledged.

I have the honor to acknowledge the receipt of Mr. Secretary Rice's Despatch of the 28th October last, No. 38, referring to that of Lord Viscount Goderich of the 28 March, 1833, No. 156, upon the subject of an Establishment heretofore called the Governor's Body Guard, which he desires may be discontinued.

Governor's
body-guard.

In reply, I beg leave to observe that, upon being first made acquainted with the designation given to a squad consisting of 1 Sergeant and 6 Rank and File, taken from the Regiments in this command and provided with Horses for Police and Orderly duties, I could not but consider it extremely absurd. I was on the point of immediately changing it by a General order, but, finding that these seven men had been so termed from 1822 to 1825, when paid from the Military Chest, and from the latter period as a charge on the Colonial Treasury, I thought it might occasion mistakes and correspondence to change the style in official documents, though I took the liberty of calling the men "Orderlies" in common parlance. Upon receiving the communication from Viscount Goderich, in which His Lordship

desires that I should "disband the Body Guard and replace them by Troops from the Garrison," I found that the use of the ostentatious designation had at length caused a misapprehension of the nature and character of this little Establishment. I therefore directed the Squad to be called "Mounted Orderlies" under which Title they appear in the Estimates of last year.

1835.
27 April.

Alteration
of name to
"mounted
orderlies."

I have to add that these men were formerly part of the Mounted Police. They still receive the same rate of pay and wear the uniform of that Corps, being that of Light Dragoons; but I have found it convenient to separate them from the Police and to place them under the command of my Aid-de-Camp. They are employed as Orderlies, there being no Cavalry whatever in the command, and they take the duty of this kind, which used to fall on the Mounted Police and interfered with their proper service.

Maintenance
and employ-
ment of squad.

As some Mounted Men of this sort are indispensable, and as these are taken from the Troops of the Garrison as directed by Viscount Goderich, I presume there will be no objection on the part of His Majesty's Government to their being continued on the present footing. The whole of the Mounted Police will, by recent command, be chargeable on the Colonial Revenue from the 1st July next.

I have, &c.,

RICHD. BOURKE.

UNDER SECRETARY HAY TO SIR RICHARD BOURKE.

(Despatch per ship Canton.)

Sir,

Downing Street, 30th April, 1835.

30 April.

With reference to the Earl of Aberdeen's Despatch to you, No. 25 of the 17th February last, acquainting you of the intention of His Majesty's Government to despatch a Vessel with Female Emigrants to New South Wales during the present month, the whole cost of whose conveyance would be defrayed at the charge of the Colony, and directing you to be prepared to advance the requisite payment on their arrival; I am now desired by the Secretary of State to request that you will pay to Messrs. Dawes, Gore and Co., of Sydney, the sum of Eight Pounds on account of each Individual whose name is inserted in the enclosed List as having embarked on board the "Canton." and that you will also pay into the military Chest nine pounds for each Emigrant, which will be the amount of the Sum advanced by the Treasury on their account in this Country.

Instructions
re payment of
freight for
immigrants per
ship Canton.

I have also to observe to you that in the case of a large family emigrating, in which there may be several children, the Secretary

1835.
30 April.
Free passages
granted to girls.

of State has decided that a free passage shall be granted to all the female members of such Families who may be above the age of 12 years.

This explanation will account for the circumstance of several names being inserted in the enclosed list, the females, to whom they refer, being under the prescribed age of 15 years.

I have, &c.,

R. W. HAY.

SIR RICHARD BOURKE TO SECRETARY OF STATE.

(Despatch No. 43, per ship Venus; acknowledged by Lord Glenelg, 12th October, 1835.)

1 May.
Appointment of
schoolmaster
for convicts.

Sir,

Government House, 1st May, 1835.

I have the honor to solicit your sanction to the expenditure, which I have found it necessary to commence of £100 per annum as the Salary of a Schoolmaster, engaged for the instruction of the Convicts arriving under sentence to work in Irons for long periods, and placed on Goat Island in Port Jackson for this purpose, and of those who, being sentenced here to a Penal Settlement, are detained in the Hulk (which is anchored abreast of Goat-Island) whilst awaiting a conveyance to Norfolk Island or Moreton Bay. The former description of Convicts is rapidly increasing, and I cannot doubt that His Majesty's Government will agree in the importance of affording them some instruction in the intervals of labor and be ready to sanction the permanent appointment of a master for this purpose. This expence being incurred for Felons under long sentences to labor passed in England and for others sentenced to Penal Settlements, I have, in conformity to the late arrangements, directed it to be defrayed by the Military Chest. I may add that for the present this appointment will answer the further purpose of teaching the elements of the Christian Religion and of English Education to eight aboriginal Blacks, who have been placed on Goat Island under a sentence, commuted from that of death, passed by the Supreme Court for outrages committed on some of the Colonists of the district of Brisbane Water. It was intended to have sent them to Van Diemen's Land to be there assigned to respectable Settlers; but the Lieutenant-Governor having represented the alarm with which the Settlers of that Colony would be likely to regard the presence of these men, I have adopted the plan of placing them on Goat-Island, where they are employed in cutting stone, and kept separate from the other prisoners.

I have, &c.,

RICHD. BOURKE.

Aboriginal
murderers
confined at
Goat island.

SIR RICHARD BOURKE TO UNDER SECRETARY HAY.
 (Despatch marked "Private," per ship Venus.)

1835.
 1 May.

My dear Sir, Sydney, N. S. Wales, 1 May, 1835.

You will oblige me very much and do a very charitable deed towards deserving persons by promoting their suit and obtaining the speedy embarkation of their families for this Colony. I send herewith copies of the official applications which you will perceive were made a considerable time ago for the wives and children of Patrick Ryan and Hugh O'Hara. If they should have been overlooked, I shall esteem it a great favor to have their object accomplished by putting them immediately into the regular channel.

Request for passages for families of P. Ryan and H. O'Hara.

We are still without any certain knowledge of the Ministerial arrangements in England, having only a report that Lord Aberdeen has been appointed Secy. of State for the Colonies. A bad shipwreck took place in the Derwent, the George the 3rd having struck on the Acteon reef, by which accident 138 Persons have lost their lives, of these 127 were Convicts. The despatches and Mail were lost. Here everything is quiet and we complain of nothing but want of rain. The Maize Crop has failed in consequence of the long drought, and wheat is at ten shillings a bushel; but I hope there is enough in the Country.

Wreck of ship *George III.*

Effects of drought.

Yours my dear Sir very faithfully,

RICHD. BOURKE.

[Enclosures.]

[Copies of these papers are not available.]

SIR RICHARD BOURKE TO SECRETARY OF STATE.

(Despatch No. 44, per ship Venus; acknowledged by lord Glenelg. 13th October, 1835.)

Sir, Government House, 2 May, 1835.

2 May.

In conformity with the Regulation by which I am required to forward Communications addressed to H.M.'s Government, I have the honor to transmit a letter from Mr. John Maxwell praying a grant of Land under the Regulations in force in the year 1822.

Request by J. Maxwell for land grant.

Mr. Maxwell arrived in that year with the usual order for land, compliance with which was suspended in consequence of his receiving a Colonial Appointment as Manager of Government Herds. On retiring from the public Service in the year 1830, he renewed his claim to Land and received 2,560 acres from general Darling. These, however, he states to have been awarded to and accepted by him in compensation of certain claims, which

1835.
2 May.

he had on the Government in connexion with his appointment, and not in fulfilment of Earl Bathurst's order, under which he asks for another grant, appealing to a letter from Sir Thomas Brisbane's administration, promising its fulfilment as soon as he left the service.

Refusal of
land grant by
R. Bourke.

I have not felt at liberty to comply with Mr. Maxwell's demand, as it appears to have been fully brought under the consideration of General Darling at the time of his directing a grant of 2,560 acres to be made to Mr. Maxwell, and that the arrangement then concluded was to be definitive.

I have, &c.,

RICHD. BOURKE.

[Enclosures.]

[Copies of these letters, dated 8th April, 1835, and 22nd May, 1823, are not available.]

LORD GLENELG* TO SIR RICHARD BOURKE.

(A circular despatch per ship England.)

4 May.

Sir,

Colonial Office, 4th May, 1835.

Instructions re
delimitation of
military works.

I have the honor to transmit to you the Copy of a letter and its enclosure, which has been addressed to my Under Secretary by direction of the Master General and Board of Ordnance on the subject of the delimitation of Military Works in His Majesty's Possessions abroad. You will observe from Mr. Byham's letter that the Earl of Aberdeen had, previously to his resigning the Seals of this Department, expressed his acquiescence in the views adopted upon that subject by the Master General and Board, and had intimated his readiness to transmit corresponding instructions to the Governors of such Stations as should be pointed out to him. In this decision of my Predecessor I entirely concur; and, the Colony of New South Wales having been designated as one of the Stations in which those principles are applicable, I transmit to you these documents for your information and guidance. While thus bringing the subject under your Notice, it is my duty to impress upon you the indispensable necessity of rigidly conforming to the regulations, which may be established by the Master General and Board of Ordnance. To that Department is especially committed the superintendence of Military Works in His Majesty's Possessions, and upon them is devolved the responsibility of indicating the regulations necessary for ensuring their usefulness and sufficiency. Any neglect of those regulations would inevitably be attended with a risk of impairing, or even entirely destroying the utility of such Works as a means of Military defence, and thus of rendering nugatory the expense and labour which may have been employed in their

* Note 171.

construction and maintenance. I feel confident that no disposition can exist in the Colony under your Government wilfully to disregard such obvious considerations; but I would point out to you how heavy a responsibility would be incurred by any Authority, which should inadvertently allow of a neglect entailing consequences of so serious a nature. If, possibly, in some peculiar cases, the perfect delimitation of Military Works may be obstructed by local circumstances, those cases must be very few, and the consideration of the manner, in which the difficulties thus arising should be obviated, must belong in the first instance to the Master General and Board of Ordnance. You will probably at no distant period receive a communication on the subject of the Military Works in New South Wales from the Officers of Engineers stationed in the Colony. It will be their duty, in conforming with their instructions, to prepare plans defining the Radius which should be reserved round those Military Works, and these plans will be submitted to you previously to their transmission to this Country. It is the desire of His Majesty's Government that every facility should be afforded to the Officers of the Engineer Department for complying with the instructions conveyed to them, and that every attention should be paid to any representations which they may address to you respecting the disposal of Crown Lands in the immediate vicinity of Fortifications or other Military Works. You will not fail to inform me of any correspondence which may take place between the Officers of Engineers and yourself upon this subject, accompanying your report with such remarks as may be necessary in order fully to understand the arguments which may be adduced on either side.

I have, &c.,

GLENELG.

[Enclosure.]

MR. R. BYHAM TO UNDER SECRETARY HAY.

Sir,

Office of Ordnance, 11th March, 1835.

Having submitted to the Master General and Board of Ordnance your Letter dated 16th Ultimo, adverting to Their communication to the Secretary of State for the Colonies of the 6th, relative to the urgency of settling the delimitation of the Military Defences of Corfu, and the propriety of equally fixing the limits of the Military Defences at other Stations generally, and stating that the Earl of Aberdeen will not fail to transmit Instructions, upon the principles laid down in the communication referred to, to His Majesty's Authorities at all other Stations which may be pointed out to his Lordship by The Master General and Board,

I have the honor to transmit to you inclosed, for the information of the Secretary of State, a Copy of a Circular which The Master General and Board have authorized to be issued to the Commanding Royal Engineers at each of the Stations in the Colonies where the application, practically, of the principles decided upon may be

1835.
4 May.

Instructions re delimitation of military works.

Necessity for delimitation of military works.

Transmission of instructions.

1835.
4 May.

requisite or expedient; and I am directed to signify the request of The Master General and Board that you will move The Earl of Aberdeen to be pleased to cause such communication on the subject to be made to the several Governors as his Lordship may deem proper.

I have, &c.,
R. BYHAM.

[Sub-enclosure.]

THE MASTER-GENERAL AND BOARD TO THE COMMANDING ROYAL
ENGINEER.

Sir,

84 Pall Mall, March, 1835.

Instructions *re*
delimitation of
military works.

Referring to the Master General's and Boards Order of 26th May, 1830, S/30, prescribing the general limit of 600 yards, within which it would not be advisable to permit the erection of any Buildings for the future in the neighbourhood of Works or Fortifications, the Master General and Board have been pleased to direct that the limits should be determined upon once for all at each Station, within which no Building whatever shall be constructed without their concurrence. And, in determining the application of this principle at each particular station, it is desirable that, besides the certain Radius above described, within which no Building whatsoever shall be constructed without the Sanction of the Master General and Board of Ordnance as aforesaid, a special prohibition should also be established of a similar nature, with reference to the erection of Buildings even beyond the Radius above alluded to, upon commanding heights or in other situations which particular local circumstances might render especially prejudicial to the Military Works.

You will therefore without delay prepare Outline Plans of the Fortified Places or Citadels or other Works in your Command shewing the adjacent Ground, and defining the Lines of demarcation, general and special, which under the above Regulation should define the ground to be excluded from being built upon; but, before transmitting those Plans, you will submit them to the Governor or Acting Governor, and to the Commander of the Troops for their concurrence, or for such observations as they may think it necessary to make with reference to the local application of the proposed restriction, and you will transmit such observations along with your Plans and your own remarks.

I am, &c.,
[Unsigned.]

LORD GLENELG TO SIR RICHARD BOURKE.

(Despatch No. 4, per ship England.)

Sir,

Downing Street, 8th May, 1835.

8 May.

Approval of
employment
of clerk.

I have received your Dispatch No. 118 of the 1st of December last, in which you report that, under the circumstances therein explained, you had been induced to retain, until the return of the Archdeacon, the services of the Clerk attached to that Functionary; and I consider that the facts which you have stated are sufficient to justify your having so far departed from the Instructions of the Secretary of State.

I am, &c.,
GLENELG.

SIR RICHARD BOURKE TO SECRETARY OF STATE.

1835.
5 May.

(Despatch No. 45, per ship *Venus*; acknowledged by lord Glenelg.
1st December, 1835.)

Sir,

Government House, 8 May, 1835.

Since I had the honor of addressing His Majesty's Government on the subject of Emigration by my Despatch mentioned in the margin,* the Ship "*Duchess of Northumberland*," announced by Mr. Hay's letter of the 30th September and by Mr. Secretary Spring Rice's Despatch No. 35 of 1st November last, has arrived in Port Jackson with 226 Female Emigrants. I have directed the several payments required by these communications to be made to the Commander of the *Duchess of Northumberland* and into the Military Chest from the Colonial Funds applicable to Emigration. In conformity also with the instructions contained in Mr. Secretary Rice's Despatch, No. 27, of 10th September, 1834, I have caused to be prepared the Report herewith transmitted, shewing in what manner each of the Females has disposed of herself on landing. With respect to the annual repetition of this report, so as to follow up the future history of the Emigrant, I beg leave to represent the impossibility of meeting the wishes of His Majesty's Government without a laborious and expensive scrutiny which can never, I am persuaded, have been contemplated in giving the instruction. It would be necessary to appoint persons for the special purpose of tracing the Emigrants in their various shifting engagements among the 35,000 persons, who form the free population of this Colony, scattered over many hundreds of square miles. Their own voluntary statements might, indeed, be invited by public advertisement; but the parties likely to answer such a call would be equally disposed to communicate with their friends through private channels, whilst the deficiency of the return with respect to others might add to the anxiety of their friends as to their fate or excite unfounded suspicion of their conduct. On these grounds, I will venture to limit the return to the first engagements of the women, unless I receive your authority to incur the expence necessary for the preparation of the subsequent reports.

In addition to the facts appearing from the Return herewith sent, I have the satisfaction of stating, with regard to the young women by the *Duchess of Northumberland*, that they have been represented by the Colonial Treasurer, Mr. Riddell, who superintended their disposal and whose opinion is confirmed by others, who have had opportunities of observing them, to be the most virtuous and best adapted for the Colony that have hitherto arrived under similar circumstances.

Arrival of ship
Duchess of Northumberland
with
immigrants.

Payments
for freight.

Report *re*
disposal of
immigrants.

Inability to
submit annual
report on
immigrants.

Character of
immigrants per
ship *Duchess of Northumberland*.

* Marginal note.—13 Feby., 1835. No. 27.

1835.
8 May.

Selection of
situations for
immigrants.

Arrival as
immigrants of
wives of
soldiers and
convicts.

“In consequence,” Mr. Riddell continues, “the greatest care has been taken in selecting good and eligible situations for them. No publican has been allowed to hire one till after it has been explained to the Girl about to be hired what sort of a place she was likely to be in, and I only know of one who hired with a Publican after such a warning.”

Two of the women were the wives of Soldiers and four of them those of Convicts. This, I presume, could not have been intended and that some imposition must have been practised to obtain a passage for these persons. The former are the wives of two soldiers of the 21st Regiment, named Coin and Hartman, stationed in Van Diemen’s Land. The names and descriptions of the husbands of the latter will be found appended to the letter from the Princl. Supt. of Convicts, of which a copy is transmitted; and, as great distress is often occasioned to the wives of convicts arriving here before the Law allows of such Indulgence to their husbands as will enable them to support a family, I trust that particular caution will be used by those, who may hereafter superintend the selection of Emigrants, in the exclusion of women thus circumstanced, more especially as they may be brought out at the public expence as soon as is consistent with their own welfare, under Regulations which have been long established.

I take this opportunity of entering upon other matters connected with female Emigration, to which my attention is called by the Despatch before referred to of the 10th September last, No. 27. Adverting to the communication from the London Committee therewith transmitted, I beg leave to supply in the margin* the name of the Soldier’s wife referred to in my Despatch, No. 27 of the 20th March, 1834. It would not have been before omitted, had I intended to give the Committee the trouble of investigating a case for which there was probably no remedy. My only object in that and subsequent communications has been to induce more caution in the future selection of Emigrants. I am fully satisfied that the best exertions of the Committee are directed towards the accomplishment of their benevolent designs; but I am also aware that, from the very nature of their undertaking, they are liable to be deceived, and that they have been imposed upon is sufficiently proved by the description and conduct of many of the women whom they have sent out.

Reports *re*
treatment of
immigrants
on arrival.

I am further called upon to reply to the observations in that Despatch on the reports current in England regarding the treatment of the Emigrants on their arrival in this Colony. It is said they were placed in the Lumber-Yard, at that time stated to be

* *Marginal note.*—Elizth. Connaughton (Wife of a Soldier in the 21st Fusiliers).

in very bad repair, and it is added "that the provisions served out to them were of the worst description, and that no attention whatever was paid to their comforts."

1835.
8 May.

In reply to this statement, I beg leave to remark that in this Colony there are but few public Buildings, which are not constantly required for the purposes for which they have been appropriated, and that to find accommodation of any sort for between two and three hundred women in Sydney is a matter of some difficulty. The Lumber Yard Buildings were those which offered the greatest conveniences for the reception of the Emigrants, and the intercourse which they required to keep up with the Inhabitants in order to procure Engagements. The Enclosure of its walls at the same time afforded to those, who were desirous of it, some protection from the rudeness of ill-disposed persons. The apartments, though out of order, were safe, and furnished with the most needful articles for taking food and rest, and generally, I believe, superior in such accommodation to the Ship the women had just left, and to the dwellings of many of them in the Countries of their birth. There were also amongst them some, who had probably been accustomed to better lodging and better fare than was here provided for them; but there had been no distinction made of cabins or rations during the voyage, and it would only have added to the dissatisfaction of the majority to have commenced it on landing. The complaint of badness of provisions is wholly without foundation, and the ration, composed as stated in the margin,* will probably be considered as furnishing not only what is required for mere sustenance, but also for some degree of comfort.

Accommodation
for immigrants
at lumber yard.

Rations for
immigrants.

During the period that the women, who arrived by the "Red Rover," were seeking service, a committee of Ladies attended almost constantly at the Lumber Yard. This attendance was but partially afforded to the women of the Bussorah Merchant, and I believe not at all to those of the Layton. The description and character of some of the women by the former vessel had rendered it hardly possible to expect the presence and assistance of Ladies of delicacy, whilst these females were engaging themselves. Women, who are an honor to human nature, have been and continue to be found, who do not scruple to mix with the most polluted of their sex for the purpose of reclaiming them from their vices; but none such can be expected to appear as the Patronesses of Prostitutes, or to interfere in their engagements

Withdrawal
of "ladies'
committee"
from super-
vision of
immigrants.

* *Marginal note.*—Military Beef, 1½ lbs.; Fresh Beef, 12 oz.; Vegetables, 8 oz.; Tea, ¼ oz.; Sugar, 1½ oz.; Salt, ½ oz.; Soap, ¼ oz.

1835.
8 May.

Supervision by
C. D. Riddell
and
W. Macpherson.

without the hope of doing good. The women, however, have never wanted the best advice. When the Ladies of Sydney retired, the Colonial Treasurer, Mr. Riddell, aided as far as his official duties allowed by Mr. Macpherson the Collector of Internal Revenue, continued assiduously to superintend the engagements and provide for the wants of the Emigrants. Mr. Riddell has extended his care to these women whilst one remained unengaged or undispensed of, and has merited and obtained the thanks of the Government for his benevolent exertions.

Denial of
neglect of
female
immigrants.

Upon the whole, therefore, I cannot admit that the female Emigrants have met with any neglect from this Government. Their wants on landing have been provided for in the humble way to which most of them had been accustomed. Their engagements in proper families have been facilitated as far as circumstances permitted. The women are, however, free agents, and those, who seek to employ them whether for good or evil, are in no way under the control of the Government. Advice and persuasion are the only means which those, who interest themselves in the fate of these females, have been able to adopt for their benefit, and it is probable that in many cases these means have been ineffectual.

Probable
protests on
enforcing
payment of
advances.

I beg to add that, if complaints have been made of the treatment of these women on their landing, His Majesty's Government may expect to hear a much louder remonstrance, if measures of coercion are resorted to in order to obtain payment of the promissory notes for Six Pounds, which many of these women, who were unable to pay £5, have been required to give on leaving the United Kingdom. If, in obedience to the commands of the Secretary of State, these women shall hereafter be taken in execution here for the debt thus contracted on their leaving their country, they will appear to be objects deserving of commiseration.

I have, &c.,

RICHD. BOURKE.

[Enclosure No. 1.]

[This contained a list of two hundred and forty-seven immigrants and the following summary:—]

Wages obtained
by female
immigrants.

Rates of Wages p. Annum obtained by those engaged in Service.

Rate.	Number.	Rate.	Number.	Rate.	Number.
£5	3	£9	16	£12	23
6	5	9 9s.	2	13	1
6 10s.	1	10	67	14	3
7	9	10 10s.	5	15	1
8	56	11	4	30	1
8 8s.	1				—
					198

[Enclosure No. 2.]

1835.
8 May.

MR. C. D. RIDDELL TO COLONIAL SECRETARY MACLEAY.

Sir, Sydney, 24th March, 1835.

I have the honour to report for the information of His Excellency the Governor that, in Somewhat less than three weeks, about 200 of the Females who arrived by the Duchess of Northumberland have been provided for in the Colony. Of the 47 who remained in the Bazaar yesterday, 20 consisted of families who emigrated in that Ship, of whom the Bulgers, consisting of 8 in number, have been engaged by Mr. Kemmis of O'Connell Plains, and are waiting for a conveyance to proceed to their destination. Mrs. Coin and her child and Mrs. Hartman and her Child are Wives and Children of Soldiers in V. D. Land, in the 21st Regt.; So that 12 out of the 20 may be considered as provided for. Of the remaining 8, five are the family of Chmes, not yet provided with a place; and 3 are the family of Marsden, consisting of Mrs. Marsden and 2 Children; of whom one, a Child of about 5 yrs. old, is blind.

Report re
immigrants per
ship Duchess of
Northumber-
land by
C. D. Riddell;

With respect to Mrs. Marsden, I have to state that she is the wife of John Marsden my assigned Servant, who has been in the Colony about 2 years, and has conducted himself with the greatest propriety. She paid her own passage, and her 2 Eldest Daughters received Government assistance and have gotten places in the Colony.

Her conduct was So exemplary on board that, upon the Superintendent and his Wife finally declining to embark at Cork, she was constituted the Matron and has acted in that capacity ever Since. Both Captn. Jobling and Dr. Eckford, the Captn. and Surgeon of the Ship, give her the highest character; and certainly the orderly behaviour of the young Women on board, and since they were landed, is to be attributed greatly to the kindness and attention of Mrs. Marsden.

I beg to add my testimony to that of others in favour of these emigrants, who may be considered in every point of view as the most virtuous and best adapted for the Colony, which have as yet been sent from any part of the British Dominions. In consequence, the greatest care has been taken in Selecting good and eligible Situations for them. No Publican has been allowed to hire one, till after it has been explained to the Girl about to be hired what Sort of a Place She was likely to be in; And I only know of one who hired with a Publican, after Such Warning.

Besides Publicans, others have been excluded from the Bazaar, who were known to be of indifferent reputation or who were not known to those in charge of the Emigrants.* I have, &c.,

C. D. RIDDELL.

[Enclosure No. 3.]

SHIP Duchess of Northumberland with Female Emigrants from Ireland.

and by
A. Macleay.

ON the arrival of this Ship, extensive Premises for the reception and accommodation of the Emigrants until they could obtain situations were hired at an expence of £20 per week; and Bedding, Provisions, Cooking Utensils and Fuel were supplied to them by Government. The following is the daily Ration with which they were supplied, viz. :—

Military Bread, 1½ pounds; Fresh Beef, 12 ozs.; Vegetables, 8 ozs.; Tea, ¼ of an oz.; Sugar, 1½ ozs.; Salt, ½ of an oz.; Soap, ¼ of an oz.

* Note 172.

1835.
8 May.

Report *re*
immigrants *per*
ship *Duchess of*
Northumberland
by A. Macleay.

A respectable person was appointed to the charge of the Premises appropriated to their use, and to carry into effect the arrangements made for their accommodation. A Committee of Ladies was formed to assist them in obtaining suitable situations, in which object the Committee was aided by the attendance and advice of the Colonial Secretary, the Colonial Treasurer and the Collector of Internal Revenue; and every possible care was taken to prevent the Females from going into the service of improper persons.

The appearance of the Emigrants on their landing created a favorable impression, as they seemed to be better suited to fill situations as servants than the Females who had arrived by former Ships; and the greater portion of them were engaged by reputable Householders within a few days after their disembarkation. How far they have answered the expectation formed of them cannot at present be stated with certainty; but such information, as can be obtained relating to their conduct and usefulness as Servants, will hereafter be communicated.

The annexed return will shew how each Individual has been disposed of and the rate of yearly wages for which she has engaged.

It will be observed that the Wives of some Soldiers stationed in Van Diemen's Land have been sent out by this Emigrant Ship, and also several women whose Husbands are Prisoners, and, as will be seen, not in a situation to receive and support them.

The Servants mostly in requisition in this Colony are general House Servants, who will also undertake washing and Laundry Work, or plain Cooking, and Girls to take care of children and perform Needlework, although the latter would perhaps be more acceptable if they could be obtained from the families of Emigrant Labourers of good character. Country Servants were not much enquired for by the Settlers on the present occasion; but this was perhaps not so much owing to their not needing them as to the expectation they had of obtaining serviceable Women of this description, owing to the character of Females sent out in former Ships and their objections to quit Sydney.

ALEXR. MCLEAY.

Colonial Secretary's Office, Sydney, New South Wales, 7th May, 1835.

[Enclosure No. 4.]

MR. F. A. HELY TO COLONIAL SECRETARY MACLEAY.

Sir,

Prinl. Supt. of Conv. Office, 27th March, 1835.

I have the honor to acknowledge the receipt this day of your letter of the 21st Instant (No. 35/136) requesting by the direction of His Excellency the Governor my report of the present employment or service of the Husband of four free women, who arrived by the Ship *Duchess of Northumberland*, and further requesting to be informed whether the former have served the prescribed period to entitle them to the indulgence of receiving their families; In reply I beg to annex the information required as far as it is known on reference to the Registers of this Office. I have, &c.,

[*Unsigned.*]

P.S.—It will be for consideration, whether some steps must not be taken by the Emigration Committees in the United Kingdom to prevent the Emigration of Wives of Convicts under such circumstances.

Report *re*
wives of
convicts as
immigrants.

[Sub-enclosure.]

1835.
8 May.

PARTICULARS REFERRED TO IN THE PRECEDING LETTER.

JOHN BULGER per Roslin Castle arrived 5th Feby., 1833. was assigned on arrival to the Revd. Samuel Marsden.

Details
re convicts.

Phillip Cunningham per Royal Admiral (5) arrived January, 1835, assigned to Mr. George Rankine of Bathurst.

Michael Beahan, per ship Royal Admiral (5) arrived January, 1835, and assigned to Mr. Henry Bond, No. 36 Upper Pitt Street.

N.B.—The abovenamed being Convicts for Life would not under the Regulations be entitled to Petition for a passage for their families until they had served a probation of Seven Years with good Conduct.

Patrick Donnelly per ship Royal Admiral (5) Died in the General Hospital, Sydney, 27th January, 1835.

SIR RICHARD BOURKE TO SECRETARY OF STATE.

(Despatch No. 46, per ship Venus.)

Sir,

Government House, 9 May, 1835.

9 May.

By Mr. Stanley's Despatch of the 29th May, 1834, No. 86, I was directed to forward Quarterly Returns of Expenditure from the Colonial Treasury according to a form therewith transmitted, commencing from the 1st January, 1834. The Returns for the year 1834 were accordingly transmitted with my Despatch of 4th February last, No. 16, and I have now the honor to forward the required Return for the first Quarter of the present year. I am induced to solicit further instructions regarding it, as from the form being prepared so as to allow of its employment for the Return of Expenditure of the Military Chest directed by the Under Secretary of State's letter of the 12th August, 1831, as well as that of the Colonial Treasury, I am induced to believe it may have been intended that both should be in future consolidated in one. Yet, as the Form first directed is slightly different from that now furnished, I have not thought it right to vary from the instruction regarding either Return without further Explanation. I have however to suggest that it may be convenient to employ the Form last transmitted for both branches of expenditure; and, if this plan be authorised, I have also to solicit instructions what number of copies will be required of the double Return and to whom they should be forwarded. At present three copies are required of the Schedule relating to the Military Chest; one for the Secretary of State; one for the Commissioners of Public accounts, and one is sent to the Secretary to the Lords

Transmission
of quarterly
returns of
expenditure.

Request for
instructions
re returns.

1835.
9 May.

Commissioners of the Treasury. Duplicates are furnished of the two former, making five in all, the preparation of which, since the reduction of Clerks in the Colonial Secretary's Office, has been found very onerous.

I have, &c.,
RICHD. BOURKE.

[Enclosure.]

[*This return has been omitted.*]

SIR RICHARD BOURKE TO SECRETARY OF STATE.
(Despatch No. 47, per ship Venus.)

Sir, Government House, 9th May, 1835.

Transmission
of returns *re*
immigrants.

I have the honor to transmit herewith the following Returns, prepared in compliance with the Instruction conveyed by Mr. Hay's letter of the 10th March, 1833.

1. A Return of free persons who arrived in N. S. Wales from the 1st to the 31st December, 1833, assisted by advances.

2. A Return of Free Females who arrived during the same month, aided by Bounties.

These Returns complete the year 1833, for which they have been already forwarded up to November inclusive, with my Despatch of the 6th December, 1833, No. 101.

3. A Return of Free Emigrants assisted by Bounty, arriving during the year 1834.

4. A Return of free Females aided by Bounties arriving during that year.

To which has been added a separate return suggested by the arrangement, notified by Mr. Secretary Stanley's Despatch of the 8th April, 1834, No. 73.

5. A Return of free Females aided by advances of £5 in addition to the usual Bounty.

The remarks appropriate to the Column left for them in these Returns have been anticipated in the several Despatches, by which I have reported the arrival of each Ship with female Emigrants, and by other communications on the subject of Emigration. I have to regret the delay which has taken place in the preparation of these Returns, but hope that the instruction which I have now repeated will lead to greater regularity in future.

I have, &c.,
RICHD. BOURKE.

[Enclosures.]

[*These returns have been omitted.*]

UNDER SECRETARY HAY TO SIR RICHARD BOURKE.

(Despatch per ship England; acknowledged by Sir Richard Bourke,
16th October, 1835.)

1835.
12 May.

Sir,

Downing Street, 12th May, 1835.

I am directed by Lord Glenelg to transmit to you a copy of a Letter from the Deputy Secretary at War enclosing a copy of a representation from John Toole formerly of the 22d Foot, who had commuted his Pension for the purpose of becoming a Settler in New South Wales, and had lost the whole of his Property on board the "Hibernia," which was burnt* at Sea. The case of this Person appears to be one deserving of commiseration, and, without recognising the principle of compensating Individuals for private losses of this description, Lord Glenelg is disposed to recommend that, if Toole should appear to be worthy of trust and of indulgence, you should take some opportunity of employing him in any situation for which he may be fitted.

Correspondence
re J. Toole.

Recommendation of
J. Toole for
employment.

I am, &c.,

[Enclosure.]

R. W. HAY.

MR. L. SULLIVAN TO SIR GEORGE GREY.

Sir,

War Office, 12 May, 1835.

I am directed by the Secretary at War to transmit herewith a copy of a letter from John Toole, formerly of the 22d Foot, who commuted his Pension for the purpose of becoming a Settler in N. S. Wales, and while on his Passage on board the Hibernia lost all his property, when that ship was burnt at Sea, and to request that you will lay it before the Secretary of State for the Colonial Dept. In doing so, you will be pleased to state that, as the Man has received the full amount of his Commuted Allowance, nothing more can be done for him in this Office than to beg that Lord Glenelg will suggest to the Governor of the Colony to afford any assistance, which may be in his power to Toole, whose case seems to be a very unfortunate one.

Recommendation of
J. Toole.

I have, &c.,

L. SULLIVAN.

[Sub-enclosure.]

MR. J. TOOLE TO ———.

My Lord,

Sydney, 15 May, 1834.

I most humbly beg to inform your Lordship, that I am one of those unfortunate People, who let go a certainty for an uncertainty in commuting my Pension with a view to better myself and family in the most horrid Country; and the money I received in England on that account, I laid out in the purchase of Sundries to suit this Country; but all proved fruitless for my property was burned in the unfortunate ship Hibernia at Sea 5 Feby., 1833, and having arrived in this Colony was obliged to shift the best way I could. I am most humbly soliciting your Lordship to introduce my case to the Honble, the Lords, Commrs. for their decision, in hopes I may be placed on my former Pension at the expiration of four years, as this Colony is not as was represented by Men, who had originally made their fortune; but poor old Soldiers are here a subject of scorn, not able to work and, as for employment, but few are under that

Request by
J. Toole for
employment.

happiness. I hope your Lordship will take my case into consideration and procure a situation for me under Govt., as Prisoners of the Crown carry the highest head here; should your Lordship be disposed to place my case before the Secretary for the Colonies, I should no doubt be placed in a situation, that would enable me and my family to live in the Country. My character can be had from the Bench of Magistrates at Tullamore, Ireland, where I was Town Sergeant and Peace Officer.

I was admitted Out Pensioner of Chelsea Hospital 2nd day of Feby., 1820, from the 22d Foot, commanded by General Finch; was then aged 39 years; served in the Army 29 7/12 years; was discharged in consequence of long service and bad health on a Pension of 1s. 4d. a day. I humbly beg the favor of your Lordship's protection and me and my family will ever pray.

JOHN TOOLE,

Late an Out Pensioner of the 22d Regt. of Foot.

SIR RICHARD BOURKE TO SECRETARY OF STATE.

(Despatch No. 48, per ship Thomas Harrison; acknowledged by lord Glenelg, 19th November, 1835.)

1 June.

Sir,

Government House, 1 June, 1835.

In my Despatch of the 22 March last, No. 28, addressed to Mr. Secy. Spring Rice, I intimated the probability of measures being taken by Mr. E. A. Slade, late a Police Magistrate in Sydney, to bring under the notice of H.M.'s Government, in the form of complaint, his removal from office in the month of October last. I had the honor to transmit with that Despatch such documents as were necessary to meet any complaint or charge preferred by that Gentleman, and especially the proceedings had before Mr. Justice Burton, one of the Judges of the Supreme Court of this Colony, in his chambers on the 30th October last and a letter, which I caused to be addressed to Mr. Slade by the Colonial Secretary on the 4th Novr. last.

Mr. Slade has now called upon me to forward to the Secretary of State for the Colonies a Memorial on this subject, which I have accordingly the honor to transmit herewith in obedience to my Instructions in this behalf. The documents, to which I have referred as having been transmitted with my Despatch of last March, and to which I now beg your attention, form a sufficient reply to the statements of Mr. Slade in the accompanying Memorial. These documents being contained in the Appendix to the Memorial, I do not forward Duplicates with this Despatch. I have now only to make a few cursory remarks on some of the paragraphs in the Memorial, lest an omission so to do might induce belief that they were correct, though whether correct or otherwise in no wise affects the substantial merits of the case, which rests on the Documents I have referred to.

1835.
12 May.

Request by
J. Toole for
employment.

Expected
complaint from
E. A. Slade.

Transmission of
memorial from
E. A. Slade
protesting
against
removal from
office.

With reference to the conversation which passed in the presence of Mr. McLeay, I do not consider this to be truly stated. I referred to the affidavit made by Mr. Slade before Mr. Burton and the circumstances of the case as sworn to on the investigation before that Judge in Chambers, and declared my opinion to be that after such an exposure as had then taken place, it would be impossible, consistently with any regard to public feeling or public morals, to permit Mr. Slade to occupy the Police Bench. I do not believe the words "You are dismissed" were ever used, the fact being that I expected Mr. Slade would have offered his resignation at the time and thus rendered dismissal unnecessary.

1835.
1 June.
Denial of
statements re
conversation.

Mr. Francis Stephen, the professional gentn. referred to by Mr. Slade, waited on me at the time mentioned to enquire whether Mr. Slade's resignation would be accepted. It would appear from the statement in the Memorial that Mr. Slade had been applied to by me to resign, whereas no such thing took place, or was even thought of; the overture came from Mr. Slade, and was accepted from a desire to perform an imperative public duty in the manner least prejudicial to the offending party; but no intimation was or could be given of the slightest intention of conferring on Mr. Slade any appointment whatever. The permission to resign, after his removal had been notified to him, was considered an act of pure grace.

Resignation
of E. A. Slade.

The delay of the letter, by which he intended to avail himself of this permission, is attributed to its not having been sent to the Office of the Colonial Secretary, with whom I had left directions, before proceeding on a journey to the Hunter's River District, that it should be immediately forwarded if received in proper time; and I actually waited on the road some hours until I received a Despatch from the Colonial Secretary informing me that no such paper had been received at his office. I do not recollect having seen any draft of the letter as stated by Mr. Slade.

Delay in letter
of resignation.

The causes, which led to Mr. Slade's removal, are distinctly stated (and the facts are incontrovertible) in the Colonial Secretary's Letter of the 4th November, 1834. The charges urged by Mr. Slade in this paragraph against many of the *most respectable and useful of the Justices of the Peace in this Colony*, I believe to be unfounded. It is, in truth, a contradiction in terms, as those gentlemen could not live in the open state of concubinage, which Mr. Slade describes, and continue to be respectable, nor would persons so circumstanced, I am assured, be supplied with Emigrant Females by the Committee.

Charges by
E. A. Slade
against
magistrates.

The assertion that Mr. Slade's services to the Government in the punishment of Convicts (which I apprehend never exceeded

1835.
1 June.
Alleged ill-
feeling of
convicts for
E. A. Slade.

the bounds of his duty, as in this case they would have been injurious instead of serviceable to the Government) have exposed him to the hatred of that class of persons in such a manner as to interfere with the security of his life or property in case of his settling in this Colony seems to me to be wholly gratuitous.

Neither am I aware of any trial having taken place, to which Mr. Slade had recourse for the vindication of his character from obloquy incurred in the execution of public duty. I have usually heard him spoken of in the light in which I myself regarded him, as an active and intelligent Magistrate.

Inability to
recommend
restoration
to office.

With regard to the prayer of his Memorial, I cannot recommend his restoration to office, as such a step would cause great public scandal, and render abortive any subsequent attempt of this Government to restrain the improprieties and indecencies of its officers by a removal from office, which they might consider as merely temporary. Nor is it possible, under the circumstances of this case, to recommend any pecuniary allowance.

Testimony to
capacity of
E. A. Slade.

The employment of Mr. Slade elsewhere is purely for the consideration of H.M.'s Government. From what I have seen of him, I regard him as an intelligent and active person, and, if cured of his irregular propensities by the misfortune to which they have subjected him, as capable of rendering useful services in another Colony.

I have, &c.,

RICHD. BOURKE.

[Enclosure.]

[A copy of this memorial is not available.]

SIR RICHARD BOURKE TO SECRETARY OF STATE.

(Despatch No. 49, per ship Thomas Harrison; acknowledged by lord Glenelg, 14th November, 1835.)

2 June.

Sir,

Government House, 2 June, 1835.

Claim by
R. G. Moffatt
to salary as
police
magistrate at
Port Stephens.

I have the honor to forward a Memorial from Mr. Robert Gerald Moffatt, late a captain in the 17th Regiment of Foot, praying for an allowance of Salary for performing the duties of Police Magistrate at Port Stephens during an interval of 14 months, which elapsed between the discontinuance of the one Hundred Pounds per annum paid by the Australian Agricul. Co., and the payment of his Salary from the public funds under the sanction of Mr. Secretary Stanley's Despatch of the 16 Apl., 1833, when it was fixed at 10s. a day or £182 10s. per annum. As Mr. Moffatt has referred in his Memorial to his removal from his Civil Employment by my order in October last, stating that but for this circumstance he would have refrained from persevering in the claim he now brings forward, and as he complains of

being unjustly treated by this Government, it is necessary that I should concisely state the facts of the case.

1835.
2 June.

Sir Edward Parry, the late Commissr. of the Company, having in the month of June, 1832, declared his intention to reduce the Salary of the Police Magistrate to £50, Mr. Moffatt addressed a letter to the Colonial Secretary, in which he stated his willingness to forgo all Salary from the Company, and to perform the duties he had hitherto attended to as Magistrate, in addition to the command of his detachment, on being allowed forage for two Horses. I directed Mr. Moffatt to be informed in answer that I had no objection to his continuing to act as a Magistrate until the pleasure of H.M.'s Government should be known as to the appointment of a Stipendiary Magistrate at Port Stephens, but that forage, being a charge not usually contingent on the appointment of a Justice, and likely to be objected to, could not be allowed. Of these letters (which are suppressed in the Memorial of Mr. Moffatt), I have the honor to transmit copies.

Offer of services
as police
magistrate by
R. G. Moffatt.

Mr. Moffatt accordingly continued in the performance of his Magisterial duties without Salary, but in the occupation of a House belonging to the Company and other advantages (such as fuel, dairy-produce, use of paddocks, etc.), allowed to the Company's servants, until September, 1833, when, having received authority from H.M.'s Government to provide a Stipendiary Magistrate for Port Stephens at the public charge, I fixed the Salary of Mr. Moffatt at 10s. a day to commence from the 1st of that month. Not having received authority to pay any Salary on account of this appointment retrospectively, I took Mr. Moffatt's services into consideration in fixing this augmented amount, and, on his afterwards applying to be paid for the interval, he was so informed.

Salary granted
as police
magistrate.

Mr. Moffatt's removal arose out of a representation made to me by the Commr., Lieut. Col. Dumaresq, in the month of September last, of a Brawl which had taken place between Mr. Moffatt and one of the Servants of the Company. A copy of his letter is transmitted herewith, not being considered in the Appendix to Captn. Moffatt's Memorial. The conduct of Mr. Moffatt appeared to me, even according to his own version of the transaction, to be so destructive of all respect due to himself in the important station he held at Port Stephens as to render it incumbent on me immediately to remove him from his Appointment at that place. I at the same time entertained a hope (though I refrained from holding out to him any expectation of the kind) that I might in process of time be able to reinstate him in a similar appointment elsewhere. The wanton and absurd misrepresentation, to which he has resorted in his Memorial, has

Removal of
R. G. Moffatt
from office.

1835.
2 June.

Denial of
alleged breach
of faith by
government.

however placed beyond doubt his unfitness for such employment. His charge against this Government of a breach of faith is sufficiently answered in the above statement of facts. His remuneration has not only exceeded the allowance of forage for which he volunteered to perform the duty in the letter he has disingenuously suppressed; but, as the Salary was nearly doubled for the fifteen months of his receiving it after it began to be defrayed by the Government, he has received in the whole about the same, which the Company would have paid him on the supposition that the arrangement subsisting on his entrance on office had continued during the entire period of his performing the duty of Magistrate. As to the Sale of his Commission, I informed Lt. Col. Despard, his Commanding Officer, in answer to his enquiry, that this step would not of itself be any reason for depriving Capt. Moffatt of his civil appointment, if he continued to fulfil its duties to the satisfaction of this Government. The question appeared to arise from the circumstance of the Civil duty having been up to that time connected with the Command of a Military Detachment, for which Captain Moffatt was about to disqualify himself. It was answered in this point of view, but no assurance was conveyed, express or implied, which could render it possible, by any stretch of reasoning, to regard his removal as a breach of faith. He has attempted to support a malicious insinuation, as to the motives which dictated his removal, by a mis-statement of fact. The Salary of his successor, who is a Civilian, instead of being, as he asserts, augmented nearly £100, is fixed at £200, £17 10s. only above that which Mr. Moffatt received in addition to his full pay as a Captain.

Inability to
support prayer
of memorial.

I need hardly add to this explanation of the nature of the application, contained in the Memorial now forwarded, that I am unable to support its prayer by any recommendation.

I have, &c.,

RICHD. BOURKE.

[Enclosure A.]

[A copy of this memorial is not available.]

[Enclosure B.]

CAPTAIN MOFFATT TO COLONIAL SECRETARY MACLEAY.

Sir, Police Office, Port Stephens, 14 June, 1832.

Offer of
services as
magistrate by
R. G. Moffatt.

I have the honor to state, should it meet with the approval of His Excellency the Governor to continue me as resident Magistrate of this Extensive District, that I will perform the duties without any further Expense to His Majesty's Government than the allowance of Forage for two Horses; should this proposal meet the approbation desired, it will at once relieve the Australian Agricultural Company from the One Hundred pounds per year paid to the Magistrate, and will fully place me in that situation that I

can with Independence perform my Duty, as it should be done. In making this offer, I am confident that the advantages spoken of in Sir Edward Parry's letter to me of the 11th inst. will be continued, as they cannot be procured otherwise.

1835.
2 June.

Offer of
services as
Magistrate by
R. G. Moffatt.

I further beg leave to point out that my being allowed to remain, as I propose, will in another point of view save the Government what will be allowed on my joining my Regiment, namely Lodging Money at the rate of £70 per year, and Coals, which will amply cover the expense of Forage for two Horses.

Trusting that I may be excused for attempting to make any proposition on the subject, which is done from my sincere wish that this District which I have been residing in for Sixteen Months should not be left without the protection of a Magistrate, and also to shew that a Magistrate cannot be appointed on a more economical principle.

I have, &c.,

R. G. MOFFATT,

Capt., 17 Regt., Resident Magistrate.

[Enclosure C.]

COLONIAL SECRETARY MACLEAY TO CAPTAIN MOFFATT.

Sir, Colonial Secty.'s Office, Sydney, 6 July, 1832.

I have had the honor to receive and lay before the Governor your two letters of the 14th ultimo, communicating one addressed to you by Sir Edward Parry on the subject of the Police Establishment at Port Stephens, and expressing your desire to obtain an allowance of Forage for two Horses in lieu of the Sum paid to you by the Australian Agricultural Company.

Letter
acknowledged.

In reply, I am directed to inform you that His Excellency has no objection to leave you in Command of the detachment at Port Stephens, and with the Commission of the Peace to enable you to act Magisterially at that place until the pleasure of his Majesty's Government shall be known upon the proposal Submitted lately for the establishment of a Stipendiary Magistrate at that Station; but the Governor cannot allow forage to you, as it is an expense not usually contingent on the appointmt. of Justices and would therefore be objected to.

Conditions for
appointment of
R. G. Moffatt.

Stationary, Irons, Handcuffs and any other usual Police Contingency will be supplied on your applying to this office for the same by Requisition; but His Excellency requests that you will inform Sir Edward Parry that, if he objects to your using the Court House, Constables, Clerk or any other permanent part of the Police Establishment for the purposes of the District generally, His Excellency will feel himself obliged to withdraw the Magistrate.

I have, &c.,

ALEXR. MCLEAY.

[Enclosure D.]

LIEUT.-COLONEL DUMARESQ TO COLONIAL SECRETARY MACLEAY.

Sir, Port Stephens, 9 Sept., 1831.

I have the honor to transmit, for the purpose of being submitted to His Excellency The Governor, the subjoined statement of a Brawl which took place on Thursday afternoon last at the Residence of Mr. H. Hall, in which it appears that Captain Moffatt and his friend Mr. Stewart (both at the time being Mr. Hall's Guests) were principally Concerned.

Report re
misconduct of
R. G. Moffatt.

Copy of Mr. H. Hall's Statement, dated Stroud, 5th September, 1834.

1835.
2 June.

Report *re*
misconduct of
R. G. Moffatt.

I came in from Booral some time after Captain Moffatt had held Court, and, after some general Conversation, he began talking about the Working Bullocks he wanted to purchase.

I told him Col. Dumaresq had decided he was not to pick them and that, as Captain Collin's Man had arrived, I must first select them for him.

Captain Moffatt then broke out in his usual way; said that I had behaved in a Blackguard manner about the Sheep, and that I always tried to humbug him in everything he bought, and got so violent that I told him, if he could not speak in a proper manner, he had better leave the house.

This made him ten times worse. He said the House was not mine; and he would stay as long as he liked.

He then sat down, and I took up a Newspaper; But he still went on saying, how ill I had used him; at last he said I was a Blackguard and a Scoundrel.

I then told him that I thought him the greatest Scoundrel and Blackguard of the two for making use of such language. He immediately got up to get a Horsewhip, saying "You dare to call me a Scoundrel." I went to prevent him for taking a Whip, when he made a blow at me which I parried, and returned full in his face, and immediately closed on him to prevent further mischief.

Messrs. Stewart and Swayne with some trouble got Captain Moffatt out of the Room.

A Minute or two after, Mr. Stewart came up to me, as we were talking in the Verandah, and without my giving him the least provocation called me a damned Blackguard. I immediately gave him a blow on the side of the head, which sent him some little distance out of the Verandah where he stood, and told me he would find another mode of settling it. I replied that he might settle it how he liked.

On this, and without my being at all aware of it, Captain Moffatt, who had been sitting in the Verandah, jumped up and struck me a most tremendous blow on the eye. I was making towards him, when Mr. Swayne jumped before me and prevented me.

I shall only add that Mr. Swayne concurred in the accuracy of the foregoing statement, which, from the tenor of Sir Edward Parry's Correspondence with Capt'n. Moffatt, as I find it Recorded in the Books of this office, seems only to confirm an impression which this Correspondence Conveys, that Captain Moffatt's general Conduct is deficient in that temper and discretion which is so Essential in his Judicial Capacity.

I beg to enclose herewith the Copy of a letter which I have addressed to Captain Moffatt apprising him of the Course I was about to pursue on the occasion. I have, &c.,

H. DUMARESQ,

Commissioner for the A.A. Company.

[Sub-enclosure.]

LIEUT.-COLONEL DUMARESQ TO CAPTAIN MOFFATT.

Sir,

Port Stephens, 9th September, 1834.

A Statement having reached me yesterday of the Brawl, which took place on Thursday the 4th inst. at the Residence of Mr. H. Hall, I beg to inform you that I shall transmit a Copy thereof by this day's Post for the purpose of being submitted to His Excellency the Governor.

Report to be
transmitted
to governor.

As Mr. Stewart, who I believe is your Guest, appears to me to have taken a most improper part in the occurrence alluded to, I hope that you will not consider the sense I entertain of his Conduct as being evinced with undue Severity, when I suggest that he may be requested to leave the Settlement.

I have, &c.,

H. DUMARESQ.

1835.
2 June.

SIR RICHARD BOURKE TO SECRETARY OF STATE.

(Despatch No. 50, per ship Thomas Harrison; acknowledged by Lord Glenelg, 15th November, 1835.)

Sir, Government House, 3 June, 1835.

3 June.

I have the honor to transmit a Memorial from the Widow of Charles Thomas Smeathman, Esqre., late coroner for this Town and District, praying that she may be allowed a Pension or a Grant of Land. From the nature of the Testimonials, attached to her application, it will be evident that I could do no less than forward it.

I have, &c.,

RICHD. BOURKE.

Request by widow of C. T. Smeathman for pension or land grant.

[Enclosure.]

[A copy of this memorial is not available.]

LORD GLENELG TO SIR RICHARD BOURKE.

(Despatch No. 8, per ship Mary Ann.)

Sir, Downing Street, 20 June, 1835.

20 June.

I have received your Dispatch No. 92 of the 18th of September last on the subject of Emigration, as aided by bounties and advances from the Land Revenues of New South Wales.

Despatch acknowledged.

Having duly considered your representation of the want of Agricultural Laborers and Mechanics in the Colony, and of the consequent difficulty which you have experienced in procuring a number of Mechanics sufficient for carrying on the Public Works without withdrawing them from the service of Private Individuals and embarrassing their operations, I have now to acquaint you that, in order to afford a stimulus to the emigration of those Classes of Persons, His Majesty's Government have come to a resolution to convert the Loan of £20, which has hitherto been made to young married Mechanics and Agricultural Laborers, into a free bounty of the same amount. Considering also the extreme difficulty, which you have experienced in recovering such Loans, and the mischief which would evidently result from an attempt to enforce repayment by Legal Process, it has also been determined to remit any claims to the repayment of Loans to Emigrants which may still remain unliquidated.

Free bounty to be granted to agricultural labourers as immigrants.

Remission of repayment of loans to immigrants.

I am, &c.,

GLENELG.

1835.
21 June.

UNDER SECRETARY HAY TO SIR RICHARD BOURKE.
(Despatch per ship *Mary Ann*.)

Sir, Downing Street, 21 June, 1835.

Correspondence
re control of
military and
convict
buildings.

With reference to former Correspondence relative to the arrangement for placing the Military and Convict Buildings in the Colony of New South Wales under the charge of the Ordnance Officers, I am directed by Lord Glenelg to transmit to you for your information and guidance a copy of a Letter from the Secretary to the Treasury, enclosing copies of a Correspondence, which he has had with the Secretary to the Board of Ordnance with regard to certain points connected with that arrangement.

I am, &c.,
R. W. HAY.

[Enclosure No. 1.]

HON. J. STEWART TO UNDER SECRETARY HAY.

Sir, Treasury Chambers, 13th June, 1835.

I am commanded by the Lords Commissioners of His Majesty's Treasury to transmit to you the Copy of a Letter from the Secretary to the Board of Ordnance of the 1st Instant respecting the Military Buildings to be placed in charge of the Officers of the Ordnance Establishment in New South Wales, together with Copy of their Lordships' reply thereto of the 13th Inst. in order that they may be submitted for the information of Lord Glenelg.

I am, &c.,
J. STEWART.

[Enclosure No. 2.]

MR. R. BYHAM TO HON. J. STEWART.

Sir, Office of Ordnance, 1 June, 1835.

Proposed
authority for
contingent
repairs to
buildings.

Captain Kelsall, appointed Commanding Engineer in Van Diemen's Land, having represented that, from the great distance of the Colony, a considerable time must elapse before any Estimates can be forwarded to or authorized from this Country, and, to prevent any inconvenience that might arise to the service, it appears to him necessary that expenditure to a certain extent by the respective Officers of the Ordnance should be sanctioned for the year 1836 for contingent Repairs to the Barracks, Commissariat Buildings and Ordnance Works and that he presumes a similar sanction will be necessary for the contingent repairs to the Convict Buildings.

I have the honor by command of the Master General and Board of Ordnance to request you will bring the subject under the consideration of the Lords Commrs. of His Majesty's Treasury, in reference to their Lordships' communication of the 21st November last on the subject of sending out an Ordnance Establishment to Van Diemen's Land.

In that Letter, the repair of the Military and Convict Buildings are mentioned generally as intended to be conducted according to the Ordnance system; but the Master General and Board presume it is not meant that any transfer to this Department should be made of the latter, but only that the Engineer Officer should afford his professional assistance to the Local Authorities on the spot,

the necessary Funds to be forthcoming from the same source and consequently that the transfer to the Ordnance and matters relating to Finance, so far as the repairs to Buildings are concerned, is intended to be limited as at all other Foreign Stations to the Military Buildings; but, as it is very desirable that complete understanding upon these points should be come to before the Officers of this Department quit this Country, the Master General and Board request you will move their Lordships to favour them with such further communication thereon as they may deem necessary.

In compliance with Captain Kelsall's suggestion, I am also to request you will move their Lordships to extend their authority for the payment for all necessary contingent repairs to all the Military Buildings to the end of the year 1836, as requested in my Letter of the 29th Ultimo $\frac{E}{1832}$ (third Paragraph) in regard to New South Wales.

I have, &c.,

R. BYHAM.

[Enclosure No. 3.]

HON. J. STEWART TO SECRETARY OF ORDNANCE.

Sir,

Treasury Chambers, 13th June, 1835.

Having laid before the Lord Commissioners of His Majesty's Treasury your letter of the 1st Instant respecting the Military Buildings to be placed in charge of the Officers of the Ordnance Establishment in New South Wales, I am commanded by My Lords to refer you to the communication made to you of 13th Inst. and to desire you will state to the Master General and Board of Ordnance, that the arrangements therein sanctioned with respect to the Military Buildings at New South Wales may be considered to extend to similar services at Van Diemen's Land; you will further observe to the Master General and Board that it is my Lords intention that the Expenditure for Military Barracks, Buildings and Works only, should in the first instance be provided for by the Ordnance Department, but at the same time that the Convict Buildings are to be under the charge of the Ordnance Officers in New South Wales and Van Diemen's Land subject to the general control of the respective Governors of the Colonies, by whose authority the expenditure for them will continue to be defrayed out of the Funds provided to meet Convict Charges, and to such ulterior arrangement in this respect as it may be found expedient to adopt when the reports upon the state of these Buildings, which it will be one of the first Duties of the Ordnance Officers to make, shall have been received and considered.

I have, &c.,

J. STEWART.

SIR RICHARD BOURKE TO SECRETARY OF STATE.

(Despatch No. 53, per ship Albion; acknowledged by lord Glenelg, 10th December, 1835.)

Sir,

Government House, 21 June, 1835.

I greatly lament to have again to bring under the notice of H.M. Govt. the serious embarrassment I sustain for want of the instructions, which I have earnestly solicited on the subject of Trial by Jury in Criminal cases in this Colony by the Despatches referred to in the Margin.* The intimation conveyed in

1835.
21 June.

Proposed authority for contingent repairs to buildings.

Instructions re expenditure on buildings.

Want of instructions re trial by jury in criminal cases.

* *Marginal note.*—6 Feby., 1832, No. 16; 12 Sept., 1833, No. 69.

1835.
21 June.

Temporary
renewal of
jury bill.

Problem
of right of
emancipists to
sit on juries.

Public opinion
re trial by
jury.

Expectations of
emancipists.

the last paragraph of Mr. Secretary Rice's Despatch of the 14th November last, No. 20, encouraged a hope that I might have been honored with a reply to those communications before the present Session of the Legislative Council should be so far advanced as to make it necessary to resort again to an inconvenient temporary expedient. Having been disappointed in this expectation, I have been obliged to propose to the Council the renewal for a year of the measure* of 1833, with a few alterations, remotely, if at all, affecting the matter at issue between the parties who divide the Colony, namely the right of Emancipists to sit on Juries. The concession of this right is, as you are aware, the great obstacle to the passing of the Jury Act in a Council composed almost entirely of the Emigrant Party. This question was revived in Council with as much warmth on the part of those, who oppose the Emancipists as was witnessed in 1833, and as I have described in my Despatch* reporting on the Act of that year. The renewal of that act till the 30th June, 1836, was, however, agreed to without a division on the understanding that this Government would take the earliest opportunity of communicating to the Council the instructions, which are expected from H.M.'s Ministers. I need not again go over the grounds which induced me to represent that the institution of Juries upon the English System is desired by the great majority of the People of New South Wales, and my opinion that the means for forming competent Juries are in existence. The intimation, given by Lord Howick† in the House of Commons in June, 1832, led to a confident belief that the King's Government had actually consented to the institution. This consent being given in reply to a Petition, in which the Emancipists and their avowed supporters were amongst the most forward of the Petitioners, no doubt seems to be entertained by them that, in granting the measure, the Emancipists will obtain the same right to be chosen to sit on a Jury as is possessed by any Person under the same circumstances in England. This concession will, however, be strongly contested in the Legislative Council, and should it be denied, it will in my opinion be more advisable to revert to Military Juries altogether, until the formation of a Legislative Body, representing more fully the opinions of the People, shall be in readiness to decide the question.

I trust that, before the expiration of the period to which the act now passed is limited, I shall be in a condition to bring the matter to an issue, as I feel very strongly the mischief which arises from the periodical discussion of a question fraught with so many jealousies and disputes.

I have, &c.,

RICHD. BOURKE.

* Note 173.

† Note 48.

LORD GLENELG TO SIR RICHARD BOURKE.
(Despatch No. 9, per ship Mary Ann.)

1835.
22 June.

Sir, Downing Street, 22d June, 1835.

I have to acknowledge the receipt of your Dispatch dated the 5th of September last No. 79, enclosing Copies of various Rules and Orders established by the Judges of the Supreme Court of New S. Wales for the conduct of Judicial business in that Colony. Of these Rules, a large number bear date in the first Term of the year 1834. The others are without date, but appear from a Marginal note in your Dispatch to have been promulgated at the same time.

Rules and orders of supreme court.

In looking through the Rules, I have not found any provision which appears to call for particular notice. Conscious however as I am of the difficulty or rather impossibility of bringing Regulations of this nature to any satisfactory test, except that of experience, especially when they are to operate in a Country so remote, and amongst a population so dissimilar from our own, I have not thought it right to advise His Majesty either to confirm or to disallow them. His Majesty's decision will be suspended until I shall have received through you, from the Judges, a Report of the practical results with which these Rules may have been attended, since the time when they took effect and acquired the authority of Law in New S. Wales. You will request the Judges to supply me with such a Report in which they will have the goodness to state, not only their general opinion how far these Rules have been conducive to the advancement of Method, Economy, and promptitude in the dispatch of the Judicial business of the Colony, but also the particular grounds from which that conclusion may be drawn. Such a review of the past will probably suggest some improvements in this part of the Administration for the future.

Suspension of confirmation or disallowance pending report from judges.

I am, &c.,

GLENELG.

LORD GLENELG TO SIR RICHARD BOURKE.
(Despatch No. 10, per ship Mary Ann.)

Sir, Downing Street, 23d June, 1835.

23 June.

I have to acknowledge the receipt of your Dispatch No. 125 of the 9th of December last, in which, with reference to former Communications, you report that you have commenced acting upon an arrangement for placing the Convict Gangs employed on the Roads and the Government Works under the superintendence of Military Officers.

Approval of superintendence of convict gangs by military officers.

I approve of the general principle of this arrangement, which appears well calculated to produce an efficient control over the

1835.
23 June.
Approval of
superintendence
of convict
gangs by
military officers.

Convict Gangs, without that division of authority which existed under the old system; and I have the satisfaction to acquaint you that the General Commanding in Chief has expressed his entire concurrence in the measure, in a Military point of view. I also approve of the rates of allowance, which you propose to grant to the different Military Officers employed on this Service; and it may be proper to acquaint you, in order to remove any doubt which may be felt on that point, that the Secretary at War has decided, on reference being made to him, that the receipt of those allowances will not, under the Army Regulations, subject the Officers to any deduction from their Regimental Pay.

I am, &c.,
GLENELG.

SIR RICHARD BOURKE TO SECRETARY OF STATE.

(Despatch No. 55. per ship Albion; acknowledged by lord Glenelg, 13th December, 1835.)

Sir, Government House, 23 June, 1835.

Proposed land
grant as reward
to C. F.
Sheppard.

I have the honor to forward a Memorial signed by a considerable number of the principal Colonists, soliciting my recommendation to H.M.'s Govt. in favor of Mr. Charles Fisher Sheppard for a gratuitous grant of Land in consideration of the desperate resistance with which he lately met an attack of some armed Runaway Convicts on the property of the Gentleman by whom he was employed as an overseer.

Testimony
in favour of
proposal.

Without presuming to dictate whether a departure from the Regulations is admissable on any application of this kind, I am bound in justice to Mr. Sheppard to declare that the courage, he exhibited on the occasion referred to, was such as has rarely been equalled, and cannot be surpassed. If merit of this kind is ever to be rewarded in the manner desired by the Petitioners, I beg leave to recommend Mr. Sheppard as a person possessing as strong a claim as can possibly be urged on such an account.

I have, &c.,
RICHD. BOURKE.

[Enclosure.]

[A copy of this memorial is not available.]

LORD GLENELG TO SIR RICHARD BOURKE.

(Despatch No. 12, per ship Mary Ann.)

25 June.
Readjustment
of expenditure.

Sir, Downing Street, 25th June, 1835.

With reference to the recent arrangements for separating the Expenditure for the Military and Convict Establishments in the Australian Colonies from the Police and other charges, which have hitherto been defrayed from the Military Chest, and for

placing in custody of the Ordnance Department the Military Buildings and Stores and the Buildings and Stores occupied by the Convicts, and also the Stores and Clothing required for the use of the Convict Establishments, I now transmit to you a copy of a Letter which has been addressed to my Under Secretary of State by the Secretary to the Ordnance, containing two suggestions on the part of the Master General and Board: First, that, in cases where any Buildings which may fall under the charge of the Ordnance may be occupied in whole or in part by the Police, the Colony should pay an annual rent sufficient to cover the expense of repairs arising from such occupation; and secondly, that, as there appear to be numerous out buildings attached to Barracks, etc., which are unnecessary and in a dilapidated state, all such Buildings should either not be taken charge of by the Ordnance, or, if they are handed over, that the materials should be disposed of in such manner as the Ordnance Officers may consider most advisable, without the delay of waiting for specific orders from England, but reporting the result of their proceedings as opportunities may occur.

1835.
25 June.

Proposals *re*
buildings
occupied by
police.

Concurring as I do in the expediency of both these suggestions, I have to request that you will take such measures as may be necessary on your part for carrying them into effect, as far as relates to the Colony under your Government; and I have only to add that, in order to avoid future discussion, it will be proper for you to use the utmost precision in defining what Buildings are to be devoted in any way to the service of the Police, and maintained by the Ordnance.

Proposals to
be adopted.

I am, &c.,

GLENELG.

[Enclosure.]

MR. R. BYHAM TO UNDER SECRETARY HAY.

Sir,

Office of Ordnance, 29 May, 1835.

The Master General and Board of Ordnance having received a Communication from the Lords Commissioners of the Treasury stating that His Majesty's Government have decided upon the adoption of arrangements for separating the expenditure for the Military and Convict establishments in the Australian Colonies from the Police and various other charges, which have hitherto been likewise defrayed through the Military Chests from the Funds of this Country; and that, in pursuance of these arrangements, their Lordships conceive it will be advisable that the charge of the Military buildings and stores, and of the buildings occupied by the Convicts, and the stores and Clothing required for the use of the Convict establishments, the expenditure relating to which services will continue to be borne by this Country, should be placed under the charge of Officers of the Ordnance department.

Readjustment
of expenditure
on military
and convict
establishments.

I have the honor to apprise you of the same for the information of the Secretary of State for the Colonies, and to state that the Master General and Board propose, in respect to any buildings that

1835.
25 June.

Rent proposed
on buildings
occupied by
police.

Proposed
demolition of
out-buildings.

may fall under the charge of the Ordnance and be fully or partly occupied by the Police, that the latter should be required to pay an annual rent for such accommodation, sufficient to cover the expense of repairs arising from such occupation; and, if his Lordship should concur in this view of the question, the Master General and Board beg to suggest that the necessary directions may be sent to the Governor of New South Wales upon the Subject.

From the Annual reports of the Committees on the state of the public buildings, it appears that there are numerous out buildings attached to Barracks, etc., which are unnecessary and in a dilapidated state, and the Master General and Board therefore propose that all out buildings attached to barracks, etc., that may be considered useless, should either not be taken charge of by the Ordnance, or, if they are handed over, that the Materials should be disposed of in such manner as the Ordnance Officers may consider most advisable without waiting orders from England, reporting however the result of their proceedings as opportunities occur. If Lord Glenelg should also concur in this proposition, the Master General and Board request you will move his Lordship to make the necessary Communication to the Governor of the Colony, that it may be adopted and acted upon by the Ordnance Officers there.

I have, &c.,

R. BYHAM.

SIR RICHARD BOURKE TO SECRETARY OF STATE.

(Despatch No. 57, per ship Albion; acknowledged by lord Glenelg. 9th December, 1835.)

Sir, Government House, 25 June, 1835.

Transmission
of memorial
from J. Greig.

In conformity with the Regulation by which I am required to forward Communications addressed to the Secy. of State, I have the honor to transmit a Memorial from Mr. James Greig praying that he may be permitted to re-select an additional grant of Land under an order of General Darling dated in 1829, which order has been cancelled for want of proper selection in due time under the Regulation in that behalf.

Explanations
re omission
to select land.

In a Memorial addressed to me in the year 1833, the omission was attributed to the fault of the Agent, entrusted with the Selection of the land, in neglecting to inform his principal of the rejection of his first selection as objectionable, or to follow it up by another. Mr. Greig was informed, in reply, that I was unable to relieve him from the consequence of this neglect. It is now for the first time stated that the nondelivery from the Post-Office of the letter of the Surveyor-General requiring a fresh Selection was the sole cause of the omission. The Agent's affidavit to this effect is appended; but, however this may be, the long acquiescence of Mr. Greig in an entire ignorance of the fate of his selection appears to me fatal to the merits of his case.

I have, &c.,

RICHD. BOURKE.

[Enclosure.]

THE humble Memorial of James Greig, of Prospect, in the Colony of New South Wales, a free Settler;

To His Majesty's Principal Secretary of State for the Colonial Department.

1835.
25 June.
Memorial
from J. Greig.

Humbly Sheweth,

1. That Your Memorialist arrived in this Colony in the year 1824, as a free Emigrant, bringing with him an available Capital of (£900) Nine hundred Pounds Sterling, the whole of which was designed for investment in Agricultural Purposes. Arrival in colony.
2. That, some Months after his arrival, Sir Thomas Brisbane, then Governor in Chief of the Colony, granted to your Memorialist Five hundred Acres of Land, with the promise that, provided he should make reasonable improvements thereon, in the course of a few years he should be entitled to a further Grant. Land grant.
3. That, in about a year after your Memorialist received the said five hundred acres of land, Sir Thomas Brisbane departed from this Colony.
4. That, on the 27th July, 1829, Your Memorialist applied to General Darling, then Governor in Chief, for the further Grant of Land promised as aforesaid by His Excellency's predecessor, Your Memorialist having in the interim cleared and enclosed One hundred and forty acres of his farm, and brought a large proportion thereof into a state of productive cultivation, and having also expended considerable Sums of Money in the erection thereon of a substantial dwelling house, barn, a stone dairy, and other out-houses. Application for extension of land grant.
5. That, in reply to the said application, your Memorialist received from the Colonial Secretary the usual printed letter, dated the 23rd November, 1829, stating that the application had been referred to the land board, before whom your Memorialist was desired to hold himself in readiness to appear, with the necessary proofs of the actual amount of his Capital at that time available in the Colony for agricultural Purposes, according to the regulations then existing; and also to shew what improvements had been made on his Original Grant.
6. That Your Memorialist appeared before the Land Board accordingly, and so fully satisfied them on both the points referred to their investigation, that he received from the Colonial Secretary a letter, dated 3rd February, 1830, informing him, by the Governor's command, that, on his waiting upon the district Magistrate, and executing the usual engagement to reside in the Colony for at least three years, Your Memorialist would immediately receive authority to select the number of Acres which His Excellency had been pleased to order for him. *Vide Appendix A.*
7. That your Memorialist, having complied therewith, received from the Colonial Secretary the usual printed letter, dated 29th May, 1830, authorising him to select Six hundred and forty acres (640), according to the regulations; and he also received from the Surveyor General the usual printed circular, dated 24th August, 1830, addressed "To any one of the Surveyors, or Assistant Surveyors" requiring him to afford to your Memorialist every necessary information for facilitating his Selection.
8. That Your Memorialist, wishing to select his land in the Southern Districts of the Colony, and his own residence being in

1835.
25 June.

the Northern, authorised and instructed Mr. Andrew Brown to select the same in your Memorialist's name and behalf, duly apprising the Government that he had made such an Arrangement.

9. That Mr. Brown accordingly proceeded into the Southern Districts without loss of time, and at length selected the land at Illawarra, and duly reported the same to the Surveyor General.

10. That, from the time of his making the said Selection, Mr. Brown took up his abode in the interior, performing, however, occasional Journeys to Sydney, and always calling, during those visits, at the General Post Office, for any letters lying there to his address, through which Channel he expected to receive the Surveyor General's reply to his aforesaid report.

11. That, late in the year 1832, Mr. Brown found at the Post Office a letter from the Surveyor General, dated 11th November, 1830 (nearly *two years* prior to its delivery), informing him that the land he had selected for your Memorialist had been previously bespoken, and begging him to make another selection. *Vide Appendix B.*

12. That Mr. Brown, astonished at so extraordinary a delay in the delivery of the said letter, made every enquiry in his power at the General Post Office and other public Establishments as to the cause thereof, but could obtain nothing like a satisfactory explanation.

13. That, as early as possible after the receipt of the said Letter, both Mr. Brown and Your Memorialist made application at the office of the Surveyor General, where, to the great grief and vexation of your Memorialist, they were informed that, in consequence of non-attention to the aforesaid letter of 11 November, 1830, General Darling's order for the Grant had been *cancelled*.

14. That your Memorialist more than once appealed to His present Excellency, Major General Bourke, for that redress to which he could not but feel himself fairly entitled; but His Excellency, not deeming himself authorised by the regulations of His Majesty's Government to renew the cancelled order, replied to that effect by letter from the Colonial Secretary, the last of which, dated 25th September, 1833, informs your Memorialist that, altho. His Excellency regretted the loss he had sustained, he could not consistently comply with your Memorialist's request. *Vide Appendix C.*

15. That your Memorialist now begs most humbly to appeal to His Majesty's enlightened Government for redress, indulging a confident hope that their Sense of Justice and good faith will not leave a free British Subject to be deprived of a *recognised and admitted right*, merely because an act of inadvertence or negligence on the part of their own Servants had put it out of his power to comply with certain points of official form.

16. That your Memorialist's present Appeal would have been forwarded much sooner, but that some difficulty occurred as to the form in which it ought to be presented, whether to His Most Gracious Majesty in Council, or to the Right Honorable the Secretary of State for the Colonies.

Wherefore Your Memorialist humbly prays that you, Right Honorable Sir, will be pleased to take the premises into your favorable consideration, and either direct His Excellency the Governor to authorise your Memorialist to select the quantity of land promised to him by General Darling, or, should you not be satisfied with the *prima facie* merits of his Case, as supported by the Affidavits

Selection
of land by
A. Brown.

Delay in
transmission
of letter.

Cancellation
of order for
land grant.

Refusal of
redress by
R. Bourke.

Appeal to
secretary of
state.

subjoined hereto, that you, Right Honorable Sir, will be pleased to refer it to the investigation of His Excellency in Council, with an Instruction that, provided he establish the truth of his allegations, His Excellency shall be empowered to afford to your Memorialist adequate redress.

1835.
25 June.

And Your Memorialist, as in Duty bound, will ever pray, etc., etc.
Sydney, 14th Novr., 1834. JAMES GREIG.

[Appendix.]

[A] MR. T. C. HARRINGTON TO MR. J. GREIG.

Sir, Colonial Secretary's Office, Sydney, 3d February, 1830.

With reference to your application of the 17th July last for additional Land to I am directed by His Excellency the Governor to inform you that, on your waiting be granted. upon James Glennie, Esqr., J.P., Patrick's Plains, and executing the usual engagement (which has been sent to him) to reside in the Colony for at least three years, you will immediately receive authority to select the number of Acres, which His Excellency has been pleased to order for you.

I am, &c.,
T. C. HARRINGTON.

[B] SURVEYOR-GENERAL MITCHELL TO MR. A. BROWN.

Sir, Surveyor General's Office, 11th November, 1830.

With reference to your selection of Six hundred and forty acres of Land at Prior Illawarra on the part of Mr. James Greig, I have to inform you that the Land applications for adjoining Ritchie's Three hundred Acres on the South Bank of the Mummuarra River (called by you the Memoisa) has been applied for to purchase by Mr. Cowell, who also holds it on a Grazing Lease; moreover the Land on the North Bank of the Mummuarra, adjoining Ritchie's other 300 acres, has been applied for to purchase by Mr. Farmer; under these circumstances, I must beg you to make another selection, and request that you will be more particular in the description of it, stating on which side of any river or creek it may be, as also the adjoining Farm.

I am, &c.,
T. L. MITCHELL, Sr. Gt.

[C] COLONIAL SECRETARY MACLEAY TO MR. J. GREIG.

Sir, Colonial Secretary's Office, Sydney, 25th September, 1832.

I am directed by the Governor to acknowledge the receipt of your Memorial of the 18th Inst. renewing your application for the 640 acres of Land, for which you received an order to select from General Darling, and in reply to inform you that, although His Excellency regrets the loss you sustain, He cannot consistently comply with your request.

I am, &c.,
ALEX. MACLEAY.

IN THE MATTER OF AN APPEAL TO HIS MAJESTY'S GOVERNMENT.

Cumberland, New South Wales, to Wit.

ANDREW BROWN, of Windsor, in the Colony aforesaid, Grazier, being duly sworn, Affidavit by Maketh Oath and Saith, that, in the year of Our Lord One thousand eight hundred and thirty, he was employed by Mr. James Greig, the present Memorialist, to act as his Agent for selecting Six hundred and forty acres of Land, which had been promised to him, the said James Greig, by His Excellency Lieut. General Darling, then Governor in Chief of the Colony; and that in pursuance thereof he did make a selection, and duly reported the same to the Surveyor General, not doubting that the said Selection would be approved and confirmed.

And this Deponent further Saith that, after having so reported his selection as aforesaid, he called several times at distant intervals at the General Post Office in Sydney for any answer thereto that might have been sent by the Surveyor General: but was always informed that no such letter was there, until about the latter end of the year, One thousand eight hundred and thirty two, when there was delivered to him a letter from the Surveyor General to himself dated the 11th November, 1830, whereof a Copy is hereunto appended.

And this Deponent further Saith that, during the said interval of time, both himself and the said James Greig were resident in distant parts of the interior, and that he (Deponent) called at the General Post Office on each and every occasion of his visiting the Town of Sydney.

And this Deponent further Saith that the long delay in the delivery of the aforesaid letter from the Surveyor General was the sole cause of Mr. Greig's land not having been finally selected within the time allowed for the same.

ANDREW BROWN.

Sworn before me, this 11th day of November, 1834:—A. B. SPARK, J.P.

A true copy as contained in the original of this Memorial.

IN THE MATTER OF AN APPEAL TO HIS MAJESTY'S GOVERNMENT.

1835.

25 June.

Affidavit
by J. Greig.

Cumberland, New South Wales, to Wit.

JAMES GREIG, of Prospect, in the Colony aforesaid, Farmer, being duly sworn, Maketh Oath and Saith, that the several Matters and things alleged in the foregoing Memorial from himself to the Right Honorable the Secretary of State for the Colony, are, to the best of Deponent's knowledge and belief, strictly true and correct.

JAMES GREIG.

Sworn before me this 14th day of November, 1834:—H. C. WILSON, P.M.

LORD GLENELG TO SIR RICHARD BOURKE.

(Despatch No. 13, per ship *Mary Ann*.)

26 June.

Approval of
admission
of schooner
Kaliopapa to
trade.

Sir,

Downing Street, 26th June, 1835.

Your Despatch No. 56 of the 30th June, 1834, having been referred for the consideration of the Lords Commissioners of the Treasury, I have the honor to acquaint you, in answer, that their Lordships have informed me that, adverting to the peculiar nature of the Commercial relation between the Australian Colonies and the Islands in the Pacific, and to the political situation and condition of the Inhabitants of those Islands, their Lordships are not disposed, under the particular circumstances stated in your Despatch, to disapprove of the proceedings, which you adopted with respect to the admission of a Vessel from the Sandwich Islands called the "*Kaliopapa*," to entry at the Port of Sydney, New South Wales.

I am, &c.,

GLENELG.

SIR RICHARD BOURKE TO SECRETARY OF STATE.

(Despatch No. 58, per ship *Albion*; acknowledged by lord Glenelg, 1st February, 1836.)

Sir,

Government House, 26 June, 1835.

I have the honor to transmit for your information a copy of "*Regulations for the Assignment of Male Convict Servants*," which are intended to have effect from and after September next. My Chief object in this measure has been to substitute, for the invidious discretion hitherto more or less vested in the officers invested with the duty of assigning convicts to private service, strict rules of qualification, intelligible alike to the dispenser and receiver of Convict labor, and from which no deviation shall be permitted. It is not until after much delay, and after maturely weighing the suggestions of various parties, that I have ventured to deal with this important and difficult subject. The original Draft of the Regulations was printed a year ago, and various alterations have been made in the rules at length adopted. I trust they will be found to reconcile many interests that were thought incompatible, and on the whole to dispose both equitably and productively of the services of the Convicts.

Transmission of
regulations for
assignment of
male convicts.

The substitution of an intelligible qualification and a strict routine of business in lieu of discretionary power has removed the chief difficulty, which I have hitherto felt in answering that part of the Despatch of Lord Stanley, dated the 25th May, 1834, No. 84, which relates to the subject of Assignments. His Lordship there states his preference of a single responsible officer with no other employment to a Board of officers otherwise employed but receiving extra pay for this duty, and desires my opinion on this suggestion. I have now no hesitation in saying that, for the administration of the Regulations of which a Copy is transmitted, a single officer may be appointed with a Salary sufficient to compensate him for engaging his whole time in the employment.

1835.
26 June.

One officer to be appointed for assignment of convicts.

I consider it due to the assiduity with which Mr. Slade, the present Clerk to the Board of Assignment, has for some years performed a very laborious duty on a small Salary amounting at first to £130, but since raised to £150, to recommend him for the proposed appointment. I would propose to designate this officer "Commr. for the assignment of Convict Servants" and to allow him a salary of £300 a year. It is not proposed to allow any clerk in this office, unless a temporary assistant be found absolutely necessary at the period of the annual return.

Nomination of G. M. Slade for appointment.

I consider myself however restrained by Lord Stanley's Despatch from making the appointment proposed, until I shall be honored with the commands of the Secretary of State on this subject.

I have, &c.,

RICHD. BOURKE.

[Enclosure.]

[A copy of these regulations* will be found in a volume in series II.]

APPENDIX.

EARL OF ABERDEEN TO SIR RICHARD BOURKE.

(Despatch No. 33, per ship Canton; acknowledged by
Sir Richard Bourke, 3rd November, 1836.)

Sir,

Downing Street, 25th March, 1835.

1835.
25 March.

I have the honor to acknowledge the receipt of your Despatch, No. 113 of the 2d Novr., 1832, reporting upon the state of the present Government House at Sydney, and submitting the propriety of erecting there another Residence for the Governor. No time was lost by my Predecessor in directing the Colonial Agent, according to your suggestion, to obtain from an eminent Architect in London Plans and Estimates for a suitable Building; these appear to have been sent to the Colony some time since; but, in consequence of the Colonial Agent having omitted to report that circumstance to this Department at the time, the necessary reference of the subject to the Treasury was not made until November last, and a considerable delay has thereby been occasioned in answering your communication.

Instructions
re erection of
Government
house at
Sydney.

His Majesty's Government would have been very reluctant (notwithstanding the authority, which appears to have been given to your Predecessor as far back as the year 1826) to sanction the erection at the present moment of a new House for the accommodation of the Governor, had the old House been in a tolerably habitable state. The very decided opinion, however, which you have expressed as to the impolicy of expending any large sum in the repair of the present Building, coupled with the expectation held out by you that sufficient funds can be raised by selling a portion of the Government Domain to meet the expence of a new House, has induced His Majesty's Government to consent to the measure, as you will perceive by the enclosed copy of a letter from the Treasury. You are accordingly at liberty to dispose of the Land in question, and to apply the proceeds to this Service; but you must distinctly understand that the total expense of building the House, and of fencing in the portion of the Domain immediately adjoining it, is not under any circumstances to exceed the sum of Twelve thousand Pounds in the whole.

There will be no objection to allow the Governor of New South Wales to retain for his own use the Land, called "Grose Farm"; but all the expenses, attending its management as well as of keeping in repair the various Buildings attached to it, must be defrayed out of his own Funds.

1835.
25 March.
Instructions
re erection of
Government
house at
Sydney.

As soon as the House at Sydney is fit for your reception, that at Parramatta, which you now occupy, must be given up; and I have to request that you will inform me in what way you consider that it can be disposed of most advantageously for the Public.

Your despatch does not afford sufficient information to enable me to judge how far it may be advisable to adopt the suggestions of the Surveyor General for improving the Streets adjacent to the Government House; but I agree with you in thinking that that part of his Plan, which involves the sacrifice of the good Houses, occupied by the Colonial Secretary and the Chief Justice, should for the present be abandoned.

I am, &c.,

ABERDEEN.

[Enclosure.]

HON. J. STEWART TO UNDER SECRETARY HAY.

Sir,

Treasury Chambers, 30th January, 1835.

Having laid before the Lords Comm'rs of the Treasury your letter of the 25th Novr. last, enclosing copy of a Despatch from General Bourke, submitting a Plan for the erection of a new Residence for the Governor at Sydney in lieu of the one now existing. I have it in command to request you will acquaint the Secy. of State that, adverting to the authority given in the year 1826 for rebuilding the Govt. House at Sydney, and to the more recent transmission with the sanction of the Secretary of State of Plans and Specifications for the new Buildings, and likewise to the very dilapidated state in which the present House is reported to be, my Lords cannot withhold their assent to the proposed arrangement for the erection of a new Residence for the Governor.

My Lords are also of opinion that the Land Revenue derived from the Sale of that portion of the Govt. Domain, it is intended to dispose of, may very properly be appropriated to defray the expense of this Work; and, as they apprehend that the value of the Land in question will not have deteriorated since General Bourke's Estimate was formed, they trust that the proceeds, upon which he has calculated, will be fully realised, and that the whole charge to be incurred may be provided for from this source. At the same time, my Lords conceive that the restriction by the Secretary of State of the Estimate for the House to the sum of £12,000 has been a very necessary precaution; and they would request the Govr. may be enjoined to take care that the whole expense of the Building does not exceed this Estimate. My Lords cannot, however, give any sanction for the very heavy charge it is proposed to incur for enclosing the grounds of the new Residence, without much more detailed information as to the extent and situation of the Area to be enclosed, and the necessity that may exist for comprising the whole of it within the kind of enclosure contemplated by the Estimate annexed to General Bourke's despatch.

You will also observe to the Secretary of State that it might have been desirable, before the Plans and Estimates procured by the Agent were forwarded to the Colony, that my Lords should have had the opportunity of submitting them for the revision of the

Officers of the Ordnance Dept., which they conceive might be made available as a Dept. of useful reference in regard to all Works of any magnitude to be executed abroad.

As my Lords have not received the Plan to which the report of the Surveyor Genl. refers, they are not enabled to form any opinion with respect to the improvement proposed by that Report in laying out the Streets adjacent to the Govt. House; but they quite concur in the suggestion of the Governor that the part of the Plan, which contemplates the sacrifice of good Houses occupied by the Chief Justice and the Colonial Secretary, should for the present not be acted upon.

It only remains for my Lords to express their decided opinion, with reference to the concluding part of Genl. Bourke's despatch, that more than one Residence ought not to be provided for the Governor of N. S. Wales at the Public expense, and that, whenever a suitable residence at Sydney can be prepared for him, the Govt. House at Paramatta should be disposed of in such manner as may be most advantageous for the Public. My Lords would, however, wish to be favored with the opinion of the Secretary of State in regard to the proposition that the Governor should be allowed to retain the use of the Land called Grose Farm, either on the terms mentioned by Genl. Bourke, or on further condition that the Farm Buildings should likewise be kept in repair at the expense of the occupant.

I am, &c.,

J. STEWART.

1835.
25 March.

Instructions
re erection of
Government
house at
Sydney.

COMMENTARY

ON

DESPATCHES

TO AND FROM GOVERNOR BOURKE,

1833—JUNE, 1835.

Note 1, pages 1, 2, 3, 309, 310, 311, 623, 624 and 625.

The following despatches.

These despatches were principally covering letters to the enclosures. Those enclosures, which are available, will be found in volumes of the series to which they belong.

Note 2, page 5.

A Conditional Pardon and a Pension.

Governor Darling reported the granting of the pardon and pension in a despatch dated 21st April, 1831 (*see* page 245, volume XVI).

Note 3, page 9.

The free Grant of 20,000 acres.

The conditions of this grant were transmitted to Sir Thomas Brisbane by under secretary Horton in a despatch dated 20th October, 1823 (*see* page 141 *et seq.*, volume XI). It will be noted that the transcriber erroneously copied the signature as J. *vice* T. Potter Macqueen.

Note 4, page 12.

The Despatch.

There were two despatches relating to the first land grant to T. Potter Macqueen, dated respectively 20th October, 1823, and 22nd December, 1826 (*see* page 141, volume XI, and page 794, volume XII).

Note 5, page 19.

The unpleasant threat.

The "threat" was contained in Viscount Goderich's despatch, dated 16th October, 1831 (*see* page 419, volume XVI).

Note 6, page 31.

Also page 167.

Exploring the Southern parts of this Colony.

W. H. Hovell made applications to Governor Darling in 1828, and to Sir George Murray in 1830, for compensation for his discoveries (*see* page 726 *et seq.*, volume XIV, and pages 801 and 802, volume XV). A note on the expedition of discovery to Port Phillip will be found numbered 151 in volume XI.

Note 7, page 31.

My Commission as Governor of Van Diemen's Land.

When, in the year 1825, it was decided "to constitute and erect the Island of Van Diemen's Land into a separate Colony," Governor Darling was given two commissions, one as governor of New South Wales, and the other as governor of Van Diemen's land (Tasmania). By the latter commission (*see page 1 et seq.*, volume V, series III), it was provided that, in the event of his death or absence from the territorial limits of the island, the government devolved on the lieutenant-governor of the island. On his voyage to Sydney, Governor Darling called at Hobart town in November, 1825, and, on the 3rd of December following, proclaimed the independence of the island and took the oaths of office as governor. He sailed from Hobart town on the 6th of December, and never revisited the island. The government was therefore administered by George Arthur as lieutenant-governor in the absence of Darling.

When Richard Bourke was appointed governor of New South Wales, he was also appointed governor of Tasmania; but, as he never visited the island, his commission as governor thereof was dormant, and George Arthur continued the administration as lieutenant-governor in the absence of Bourke.

Note 8, page 34.

Letters Patent.—Additional Instructions.—Letters Patent.

The letters patent appointing R. Darling as governor and the additional instructions will be found on pages 99 *et seq.*, and 125 and 126, volume XII. The draft of the letters patent for the corporation for the clergy and school estates will be found on page 444 *et seq.*, volume XI, with a few amendments on page 126, volume XII.

Note 9, page 36.

Whilst at the Cape of Good Hope.

R. Bourke was appointed lieutenant-governor of the eastern district of the Cape of Good Hope on the 5th of July, 1825, with power to act as governor of the whole colony during the absence of the governor, lord Charles Somerset, who was ordered to return to England to reply to charges of maladministration. Accordingly, Bourke administered the government from the 8th of February, 1826, to the 9th of September, 1828.

Note 10, pages 46 and 57.

This plan.—The Instructions addressed to General Darling.

This plan was for a square cottage forty-two feet on each side with a verandah in front. It contained dining and drawing rooms, three bedrooms, a dressing-room, two store-rooms, a vestibule and lobby, and a china closet. At the rear of the house and connected with it by a verandah, there were a servant's room and kitchen.

The instructions will be found on page 429 *et seq.*, volume XV.

Note 11, page 63.

My former Despatch.

This despatch was dated 5th January, 1831 (*see page 7*, volume XVI).

Note 12, page 65.

An Abstract.

With minor modifications, this abstract was ordered to be printed by the legislative council on the 27th of May, 1833, and will be found in the volumes of *Votes and Proceedings of the Legislative Council.*

Note 13, pages 80 and 83.

An Order.

This order or proclamation was dated 8th June, 1829 (*see* pages 19 and 20, volume XV).

Note 14, page 100.

A letter.

This was the letter to the hon. J. Stewart, dated 2nd May, 1833.

Note 15, pages 106 and 114.

Your letter of the 27th of July.

A copy of this letter will be found on page 742, volume XVI.

Note 16, page 120.

The notice.

This notice was as follows:—

“ Tickets of Leave,

“ Colonial Secretary’s Office,

“ Sydney, 31st December, 1832.

“ The Act of the Imperial Parliament, 2d and 3d William IV, cap. 62, having enacted ‘ That neither the Governor nor Lieutenant Governor of any Island, Colony or Settlement, or any other Person, shall give any Pardon or Ticket-of-Lieave to any Person sentenced to Transportation, or who shall receive a Pardon on Condition of Transportation, or any order or permission to suspend or remit the Labor of any such Person, except in case of illness, unless such Person, if transported for Seven Years, shall have served Four; if transported for Fourteen Years, shall have served Six; or, if transported for Life, shall have served Eight Years of Labour.’ His Excellency the Governor directs it to be notified that the Regulations of the Colonial Government of the 1st January, 1827, paragraphs 4 and 5; of the 23rd May, 1831, paragraphs 2 and 3; the Regulations of the 17th March, 1829, and all others by which, in consideration of certain meritorious services performed by prisoners of the Crown, the period of their servitude may be abridged, are revoked and rendered null and void by the operation of the said recited Act. At the same time, His Excellency, with the Advice of Executive Council, is pleased to declare that prisoners of the Crown, who shall establish satisfactorily a claim to abridgement of servitude for services performed prior to the 12th of December, 1832, being the day on which the said recited Act was published in this Colony, will be considered entitled to receive the stipulated indulgence as a temporary measure, and will be recommended to the gracious favor of His Majesty for a confirmation of the same.”

Note 17, page 122.

A Copy.

This and similar statements will be found in volumes in series II.

Note 18, page 122.

The decease of the former to the arrival of the present Botanist.

The death of Charles Fraser was reported by Governor Bourke in his despatch, dated 4th January, 1832, and the appointment of Richard Cunningham was announced by Viscount Goderich in his despatch, dated 10th May, 1832 (*see* pages 501 and 643, volume XVI).

Note 19, page 123.

Certain Lands.

Reports on this land grant were transmitted by Governor Darling with his despatch, dated 21st December, 1830 (*see* page 836, volume XV).

Note 20, page 125.

An exploring party.

There were several expeditions sent to the district of Argyle by Governor Macquarie in the closing years of his administration. These were led by James Meehan and Charles Throsby, assisted by Hamilton Hume. Lake Bathurst was discovered by James Meehan, accompanied by Hamilton Hume, in the month of April, 1818.

Note 21, page 130.

2d and 73d Sections.—43d Section.

The statute, 6 Geo. IV, c. cxiv, was entitled "An Act to regulate the Trade of the *British* possessions abroad." By the second section, certain ports were designated by name as *free ports*. By the 73rd section, the King in council was granted power to regulate trade within the limits of the East India company's charter, excepting the possessions of the said company.

The statute, 7 Geo. IV, c. xlvi, was entitled, "An Act to alter and amend the several Laws relating to the Customs." Section 43 provided for the forfeiture of all goods imported into any port not designated as a free port under sect. 2 of the statute, 6 Geo. IV, c. cxiv.

Note 22, page 130.

The Despatch.

This despatch was written by under secretary Twiss, and dated 30th November, 1828 (*see* pages 513 and 514, volume XIV).

Note 23, page 135.

John Knatchbull.

John Knatchbull was a half-brother of Sir Edward Knatchbull, and had held the rank of commander in the navy. He was transported for picking a pocket in Vauxhall gardens. In 1832, he was convicted at Sydney of forgery and sentenced to be transported to Norfolk island, and, in November, he was sent with others to the island. On the voyage, he proposed to poison the military and the crew with arsenic, and to seize the ship. Fortunately this attempt was prevented by one of his fellow prisoners turning informer. After serving some years on Norfolk island, he returned to Sydney and later obtained a ticket of leave. He was then employed in command of a small coasting vessel. On the 6th of January, 1844, in order to obtain money, he murdered Mrs. Jamison, a widowed shopkeeper in Sydney. For this crime, he was tried, convicted and executed.

Note 24, page 142.

The Instructions.

These instructions will be found on page 119 *et seq.*, volume XII.

Note 25, page 149.

The Establishments of the Van Diemen's Land Company.

The establishments were located at Circular head on the north coast of Tasmania to the west of the estuary of the river Tamar.

Note 26, page 151.

A letter.

This letter was published by J. Bingle in a pamphlet (*see* note 204, volume XVI).

Note 27, page 155.

A printed Copy.

These estimates will be found in the *Votes and Proceedings of the Legislative Council* for the year 1833.

Note 28, page 156.

The aqueduct or Tunnel.

A note on this tunnel will be found numbered 167 in volume XI.

Note 29, page 158.

The order-in-Council.

The order-in-council was transmitted by Viscount Goderich with his despatch dated 10th March, 1833 (*see* page 34).

Note 30, page 159.

This letter.

A copy of this letter will be found on page 498, volume XIV.

Note 31, page 163.

A portion of a Loan.

The details of this transaction will be found in Viscount Goderich's despatches, dated 12th January and 29th March, 1831 (*see* pages 22 *et seq.* and 223 *et seq.*, volume XVI).

Note 32, page 165.

I do not discover that these Regulations were submitted.

This statement by Governor Bourke was erroneous. The regulations were transmitted by Sir Thomas Brisbane with his despatch dated 14th August, 1824 (*see* page 341 *et seq.*, volume XI).

Note 33, page 168.

The 11th Clause.

This clause was as follows:—

“Provided always and be it further enacted, That nothing in this Act or Ordinance shall be deemed or taken to apply to the weights and measures, now used by His Majesty's Officers in the said Colony for ascertaining any rates or duties payable to His Majesty, His Heirs and Successors, upon the importation into the said Colony of any goods, wares, merchandize or other thing, or upon spirits distilled therein, unless His Majesty's pleasure shall be first had and signified to such effect. And, in case His Majesty's pleasure shall be so had and signified, and as soon as conveniently may be thereafter, it shall be lawful for the Governor of the said Colony for the time-being, with the advice of the Executive Council, to cause accurate tables to be prepared and published, in order that the several rates and duties may be adjusted and made payable according to the respective standards of weight and measure, established by this Act or Ordinance; and that, immediately from and after the publication of such tables, the several rates and duties thereafter to be collected by His Majesty's said Officers shall be collected and taken according to the calculations in the tables to be prepared and published as aforesaid.”

Note 34, page 169.

On the 27th of December last.

In the copy available, this despatch was dated 22nd December, 1832, and was signed by under secretary Hay and not by Viscount Goderich (*see* page 819, volume XVI).

Note 35, page 172.

Also pages 397 and 731.

The dreadful calamity.

The ship *Hibernia* sailed from Liverpool with merchandize and passengers bound for Hobart town. Inclusive of the crew, there were two hundred and thirty-two persons on board. Shortly after crossing the equator, a fire was discovered in one of the holds, and it was soon realised that the ship was doomed. Unfortunately the two ship's boats could only carry sixty-two persons, and the pinnace seventeen more, and one hundred and fifty-three persons lost their lives in the burning ship. The boats were picked up by different ships. After six days and six nights of suffering, during which one passenger died, the ship's boats with sixty-one persons were picked up by the ship *Lotus* and conveyed to Rio de Janeiro, from whence they were forwarded to Tasmania at the expense of government.

Note 36, page 176.

The printed circular.

This circular will be found amongst the printed papers of the emigration commissioners presented to the house of commons.

Note 37, page 180.

Also page 445.

The Commissioners.

On the 21st of June, 1830, a commission was issued to James, earl of Rosslyn, Henry Goulburn, Maurice FitzGerald, Edward Granville Eliot (known as lord Eliot), and Sir James Willoughby Gordon, to inquire into the revenue and expenditure of the colonies and foreign possessions. Their third report, dated 1st November, 1830, was on the Australian colonies. It was submitted to, and ordered to be printed by the house of commons on the 8th of December, 1830.

Note 38, page 181.

Those claims.

Governor Bourke submitted a full report on these claims in his despatch, dated 28th September, 1833 (*see* page 220 *et seq.*).

Note 39, page 181.

One of the Members of Council has protested.—A Pension for services.

When the estimates for the year 1833 were under consideration, John Blaxland made similar protests against the votes to A. Macleay and J. Busby (*see* page 775, volume XVI). In reply, the right hon. E. G. Stanley admitted the validity of the protest against the vote to A. Macleay in his despatch dated 30th April, 1833 (*see* page 89); but this decision had not been received in the colony when the estimates for the year 1834 were laid before council.

The pension was granted to A. Macleay for services under the transport board, when that board was abolished in the year 1818. In 1797, Macleay had been appointed head of the correspondence department, and, from 1806 to 1818, he held office as secretary of the board.

Note 40, page 181.

A Resolution of the Council.

The resolution for an increase of pension from £200 to £300 was passed on the 25th of June, 1833, and will be found in the printed votes and proceedings for that date.

Mrs. Anna Josepha King was granted a pension of £200 *per annum* from the death of Governor King on the 3rd of September, 1808 (*see* page 78, volume VII).

Note 41, page 182.

The estimates.

These estimates will be found in the volume of *Votes and Proceedings of the Legislative Council* for the year 1833.

Note 42, page 191.

The missing No. 122.

There was no despatch numbered 122 (*see* page 307).

Note 43, page 192.

215 Females.

In the copy of this despatch preserved at government house, Sydney, the number is stated to be 250 females.

Note 44, page 194.

A Volume of Tables.

This volume will be found in the printed papers of the house of commons.

Note 45, page 205.

One very active, zealous and laborious Clergyman.

The established clergy of the Roman Catholic church were the Reverends W. B. Ullathorne, John McEneroe and C. V. Dowling. The Reverend John Joseph Therry was dependent on the people for his support subsequent to the discontinuance of his salary in 1826 (*see* page 173, volume XII).

Note 46, page 208.

Sir Thomas Brisbane's correspondence.

The despatch was dated 11th October, 1825 (*see* page 887 *et seq.*, volume XI).

Note 47, page 210.

The 2nd Clause.

This clause was as follows:—

“And be it further enacted, That neither the Governor or Lieutenant Governor of any Island, Colony or Settlement, or any other person, shall give any Pardon or Ticket of Leave to any person sentenced to Transportation, or who shall receive a Pardon on condition of Transportation, or any order to suspend or remit the labor of any such person except in cases of illness, until such person, if transported for seven years, shall have served four; if transported for fourteen, shall have served six; or if transported for life, shall have served eight years of labor; and that no such person shall be capable of acquiring or holding any property, or of bringing any action for the recovery of any property, until after such person shall have duly obtained a Pardon from the Governor or Lieutenant Governor of the Colony or Settlement, in which he or she shall have been confined. Provided that nothing herein contained shall in any manner affect His Majesty's Royal Prerogative of Mercy.”

Note 48, page 214.

Also page 742.

I intimated.—The debate.

Governor Bourke's speech to the legislative council on the 19th of January, 1832, was printed in full in the *Votes and Proceedings* for that date.

On the 29th of June, 1832, Bulwer presented a petition to the house of commons from residents in the colony, praying that the principle of trial by jury should be extended to all cases, civil and criminal. The petition was ordered to be printed. Bulwer then moved, and Robinson seconded, a proposal for "the appointment of a select committee to inquire into the best means of providing a legislative assembly, as well as trial by jury, for the inhabitants of the thriving and extensive colony of New South Wales." Lord Howick, in reply to the motion, stated that Governor Bourke had been ordered to consider the propriety of the introduction of trial by jury; that the result of Governor Bourke's inquiry was favourable to the change; and that the full benefits of trial by jury would be granted to the colony during the following year (*i.e.*, 1833). After some debate, Bulwer withdrew his first motion and substituted a second motion: "That an humble address be presented to his Majesty, praying that his Majesty will be graciously pleased to cause measures to be taken in order to give to the free inhabitants of New South Wales a system of legislative representation such as the present condition and circumstances of that colony may seem to require." This motion was put and lost by sixty-seven votes to twenty-six.

Note 49, pages 215 and 216.

An alteration.—Trial by Assessors.

The alteration was in the second clause of the act, which as passed provided for "the trial of criminal issues in the Supreme Court to be by a jury of twelve inhabitants if desired by the accused."

Under the provisions of the statute, 9 Geo. IV, c. lxxxiii, it was provided that the trial of actions at law should be by one or more judges and by two magistrates as assessors, provided the parties to the suit did not desire to have a jury.

Note 50, pages 218 and 371.

A new Seal.

This seal was issued in consequence of the accession of H.M. William IV to replace the seal of H.M. George IV, which had been transmitted to the colony with a despatch dated 10th December, 1826 (*see* page 735, volume XII). The new seal was one-sided only, and combined the obverse and reverse of the seal authorised in 1817 (*see* note 97, volume IX), subject to the substitution of Gulielmus IV for Georgius IV.

Note 51, page 221.

The Petition, Evidence and Protest.

These papers will be found in the *Votes and Proceedings of the Legislative Council*. The petition was presented on the 20th of June, 1833; the evidence was taken on the 3rd, 17th, 18th and 19th of July; and the protest by John Blaxland was made on the 22nd of August following.

Note 52, page 226.

Seven Stone or Brick Churches.

These churches included those of St. Phillip and St. James at Sydney, of St. John at Parramatta, of St. Luke at Windsor, of St. Peter at Campbelltown and of St. Matthew at Windsor.

Note 53, page 226.

A loan from this Government amounting to £——.

In the year 1825, Sir Thomas Brisbane granted the trustees of the Scots church a loan of two thousand four hundred Spanish dollars towards the erection of the church (*see* pages 550 and 551, volume XI).

Note 54, page 232.

A pamphlet.

This was an octavo pamphlet, containing twenty-seven pages, printed by Stephens and Stokes at Sydney in 1832, and entitled, *A Letter in vindication of the principles of the Reformation, addressed to Roger Therry, Esq., Commissioner of the Courts of Requests in New South Wales, in consequence of a speech, delivered by him in the Roman Catholic Chapel at Sydney on Sunday, July 29, 1832.*

Note 55, page 237.

The Evidence.

On the 10th of April, 1812, Robert Campbell was examined before the select committee of the house of commons on transportation, and the following was part of his evidence:—

“ Was there a sufficient number of persons to establish a council to assist or control the Governor, and regulate the laws of the country?—Not in the Colony.

“ Was there a sufficient number of respectable persons to establish the trial by jury?—I think there was a sufficiency to have formed a jury, although certainly it would have come very hard upon them unless there was a selection from those who were free by servitude or otherwise.

“ Were the people of the colony generally contented with the courts of justice as they are now constituted?—I think not; they would have preferred a trial by jury certainly.”

Note 56, page 237.

The New South Wales Bill.—Mr. Huskisson's Bill.

The New South Wales bill was the statute, 4 Geo. IV, c. xcvi, and Mr. Huskisson's bill the statute 9 Geo. IV, c. lxxxiii.

Note 57, page 238.

The Australian Bank Bill.

This act of council was passed to enable the proprietors of the bank of Australia (*see* note 75, volume XII) to sue and be sued in the name of the chairman.

Note 58, page 243.

The Titles of these Acts.

These were three private bills, viz. :—

“ An act to enable the Members of a Certain Society in the Colony of New South Wales, denominated ‘the Benevolent Society,’ to Sue and be Sued in the Name of the Treasurer for the time being, and for other purposes therein mentioned,” passed on the 24th of August, 1832.

“ An Act to enable the proprietors of a certain Joint Stock Company, carried on in the Town of Sydney, in the Colony of New South Wales, under the Name, Style or firm of the ‘Australian Marine Assurance Company,’ to Sue and be Sued in the Name of the Chairman of the Said Company for the time being, and for other purposes therein mentioned,” passed on the 27th of September, 1832.

"An Act to enable the Trustees of the Scots Church in Sydney in the Colony of New South Wales to grant a Mortgage to Government on the Buildings, now erecting on their allotments, for the Amount of a Loan advanced by Government to enable the Said Trustees to erect the Said Church, and also for the Amount of a further Loan advanced by Government in Aid of the Establishment of the Australian College," passed on the 13th of October, 1832.

Note 59, page 245.

Earl Bathurst's Despatch.—The Secretary of State regretted.

Earl Bathurst's despatch was dated 11th July, 1826 (*see* page 357, volume XII). The second reference was to Sir George Murray's despatch, dated 23rd April, 1830 (*see* page 440, volume XV).

Note 60, pages 247 and 272.

His Majesty's Regulations.—The same terms.

The "regulations" will be found on page 84, volume XVI, and the "terms" on pages 595 and 596, volume XII.

Note 61, page 248.

The Sydney Mechanics' Institute.

This institution was established in March, 1833, under the patronage of Governor Bourke for "the diffusion of scientific and useful knowledge." It was managed by a committee of twenty members, thirteen of whom were operatives and seven non-operatives. It made rapid progress, and, at the beginning of the year 1835, its library consisted of over six hundred volumes and a number of models and apparatus had been collected for lecture purposes. Its meetings were held in the house on Church hill formerly occupied by F. N. Rossi, the superintendent of police.

Note 62, page 248.

Two Allotments in Rush Cutters Bay.

These allotments lay on the easterly side of Glenmore-road at the corner of that road and Oxford-street. The area was eight acres and ten perches, and the deed of grant was issued on the 24th of July, 1840, to Thomas Walker, James Mitchell and William Timothy Cape, as trustees for the Australian subscription library.

Note 63, page 249.

The despatch of Lord Goderich.

This despatch was dated 26th April, 1832 (*see* page 614, volume XVI).

Note 64, page 249.

Sir Edward Parry proposed.

The first agreement for the price to be charged by the A.A. company for coal to be supplied to government was enunciated by Sir George Murray in his despatch dated 31st July, 1828 (*see* page 274, volume XIV). This method for fixing the price was found inconvenient, and Sir Edward Parry proposed a standard price.

Note 65, page 256.

A direction given by your predecessor.

The instructions for payment of rent by F. Forbes and A. Macleay for their official residences were given in his first despatch by the right hon. E. G. Stanley (*see* page 70), and not by his predecessor, Viscount Goderich.

Note 66, page 257.

His late Majesty's charter.

This charter will be found on page 509 *et seq.*, volume I, series IV. The conclusion of the sixth section was as follows:—"Provided nevertheless that it shall be lawful for the said Chief Justice to occupy and inhabit any Official House or residence within the said Colony of New South Wales, which hath been or may hereafter be provided for his residence and occupation, without paying to us, our heirs and successors, any rent for the same, and without being obliged to repair, uphold or maintain any such house or Official Residence at his own Costs and Charges."

Note 67, page 260.

The preceding Rule.

The whole of this sub-enclosure was numbered 7 in the rules and orders of the supreme court for the first term, 1834. The "preceding Rule," however, referred to the first paragraph, *i.e.*, "until His Majesty's pleasure shall first be made known."

Note 68, page 269.

The former licensing Act.

This was the act of council 11 Geo. IV, No. 11, passed on the 12th of May, 1830; its duration was limited to the 30th of June, 1833.

Note 69, page 270.

The former Law.—A Separate Despatch.—Transmitted to you.

The former law was the act of council 9 Geo. IV, No. 11, passed on the 24th of July, 1828.

The despatches transmitting the appropriation and police acts were dated 3rd August, 1833 (*see* page 180 *et seq.*) and 2nd October, 1833 (*see* page 233 *et seq.*).

Note 70, page 270.

Claims to grants of Land.

The necessity for this act was summarised in its preamble, which was as follows:—

"Whereas many persons have heretofore obtained the possession of lands in this Colony by the license and authority of the several Governors thereof, under promise of grants to be to them duly made by the said Governors, and upon the faith thereof large sums of money have been expended in improving and building upon the said lands, but in many cases such grants have been unavoidably delayed and have not been made as aforesaid; and the said lands and premises have come into the possession of other persons, claiming to have and hold the same as their just and lawful right, obtained by, through or under the persons who originally obtained possession thereof as aforesaid; And, in many cases by reason of the death, incapacity or absence of the said last mentioned persons, and from other circumstances, it hath become impossible to produce such legal titles as would be necessary to enable the Supreme Court of this Colony to take cognizance of and determine thereon; and it is expedient and necessary that a remedy should be provided in such cases, and that such grants should be made and delivered to and in the name of those persons, who have now the just and lawful right thereto obtained as aforesaid."

Note 71, page 271.

A Separate Despatch.

This despatch was dated 12th September, 1833 (*see* page 213 *et seq.*).

Note 72, page 273.

A Minute of Council.

A copy of this minute will be found in a volume in series II.

Note 73, pages 274 and 275.

Mental derangement.—To form a Settlement.

The details of I. S. Nind's illness and of his appointment to the settlement at King George's sound will be found on pages 546, 547, 456 and 640, volume VI, series III.

Note 74, pages 276 and 440.

Report.

This report was printed in the *Votes and Proceedings of the Legislative Council*, dated 28th August, 1833.

Note 75, page 276.

A Bill for the more effectual administration of Justice.

This bill was passed as the statute, 4-5 Wm. IV, c. lxxv.

Note 76, page 277.

One of the Judges.

On the 5th of September, 1833, the ship *Esther* sailed for Norfolk island with a special commission for holding criminal trials on the island. It included Justice Dowling; W. H. Moore, crown solicitor; J. W. Dowling and J. W. Plaistowe, solicitors; the Reverend J. J. Therry; and major Bouverie, captain Church, lieutenant Otter, and ensigns Hacker and Monypenny, to act as military jurors.

Note 77, page 282.

My confidential letter.

This letter will be found on page 745, volume XVI.

Note 78, page 283.

The circumstances.

The conditions of the employment of W. H. Moore as solicitor in 1814 were noted by Earl Bathurst in despatches, dated 13th February and 5th July, 1814 (*see* pages 139 and 268, volume VIII).

Note 79, page 290.

A Rule.

A copy of this rule will be found on pages 260 and 261. It was approved by the right hon. T. Spring Rice on the 6th of June, 1834 (*see* page 453).

Note 80, page 297.

The Despatch.

The despatch was dated 2nd October, 1833 (*see* page 233 *et seq.*).

Note 81, page 299.

I have before had occasion to represent.

Governor Bourke reported adversely on discharged soldiers as immigrants in a despatch dated 26th July, 1833 (*see* page 175).

Note 82, pages 302 and 304.

A former Despatch.—Your notice.—Compensation.

The proceedings of the legislative council during the passing of the jury bill were reported by Governor Bourke in despatches dated 12th September and 2nd October, 1833 (*see* pages 213 *et seq.* and 236 *et seq.*); and the proceedings on the claim of H. and W. Dumaresq for compensation in a despatch, dated 28th September, 1833 (*see* page 220 *et seq.*).

Note 83, page 304.

The original warrant.

A copy of this warrant will be found on pages 623 and 624, volume XIV.

Note 84, page 307.

The new Act will be reprinted in 1836.

The duration of the statute, 9 Geo. IV, c. lxxxiii, was limited by section 41 to the 31st December, 1836, or until the end of the next session of parliament.

Note 85, page 307.

A Summary of the Census.

This abstract was published in the newspapers, and detailed the population of the counties and eight principal towns of which the following are the totals:—

Male—

Free above 12 years of age	17,542
under 12 years of age	5,256
Convicts	21,845
	<hr/>
Total	44,643

Females—

Free above 12 years of age	8,522
under 12 years of age	4,931
Convicts	2,698
	<hr/>
Total	16,151

General total 60,794

Religion: Protestants, 43,095; Roman Catholics, 17,238; Jews, 345; Pagans, 56; uncertain, 42.

Note 86, page 312.

Lord Goderich's Despatch.

This despatch was dated 30th December, 1831 (*see* page 497, volume XVI).

Note 87, pages 316 and 320.

A law.—The Summary Jurisdiction Act.

This was the act of council, 3 Wm. IV, No. 3, passed on the 24th of August, 1832.

Note 88, page 318.

Committees of the House of Commons.

The reference was to the select committee of the house of commons on secondary punishments, whose report, together with the minutes of evidence and an appendix of papers, was ordered to be printed by the house on the 27th of September, 1831.

Note 89, page 328.

My Despatch.

This was the despatch dated 3rd November, 1832 (*see* page 787 *et seq.*, volume XVI).

Note 90, page 344.

The advertisement.

This advertisement was as follows:—

“The committee for promoting the Emigration of single women to Australia, having obtained the sanction of his Majesty’s Secretary of State for the colonies, hereby give notice that the fine ship *Layton* of 513 tons *per* register, Richard Saunders commander, carrying an experienced surgeon and a respectable person and his wife as superintendents, to secure the comfort and protection of the Emigrants during the voyage, will sail from Gravesend on the 15th August (beyond which day she will on no account be detained) direct for Sydney.

“Single women and widows of good health and character from 15 to 30 years of age, desirous of bettering their condition by emigrating to that healthy and highly prosperous colony, where the number of females compared with the entire population is about one to three, and where consequently, from the great demand for servants and other female employments, the wages are comparatively high, may obtain a passage by this ship on payment of £5 only, as they will have the advantage of the free grant of £12 each from Government, which grant, during the present year, will be confined to those females sent out by this Committee and will cease after this ship is despatched.

“The females who proceed by this conveyance will be taken care of on their first landing at Sydney; they will find there a list of the various situations to be obtained and of the wages offered, and will be perfectly free to make their own selection; they will not be bound to any person nor subjected to any restraint, but will be to all intents and purposes perfectly free to act and decide for themselves.

“Females in the country, who may desire to avail themselves of the important advantages thus offered them, should apply by letter to ‘The Emigration Committee, London,’ under cover addressed to ‘The Under Secretary of State, Colonial Department, London.’ It will be necessary that the application be accompanied by a certificate of character from the resident minister of the parish, or from some other respectable person to whom the applicant may be known; but the certificate of the resident minister is in all cases most desirable; it must also certify the ability of the party to pay £5 to the order of the Committee, so soon as she shall be informed that she is admitted by them as a passenger, and which sum when paid here will cover all the expenses of the passage for which she will be liable. Such females,

as may find it desirable, may when approved by the Committee as fit persons to go by this conveyance be boarded temporarily in London prior to embarkation on payment of 7s. *per week*.

“All applications made in the foregoing manner will receive early answers; and persons residing in or near Truro may obtain all necessary information by applying to James Bastian, agent for Cornwall, or to John Marshall, agent to the Emigration Committee, 26 Birchin Lane, London.—EDWARD FOSTER, Chairman.”

Note 91, page 345.

An Extract.

The extract was as follows:—

“The ship *Layton* of 513 tons, Captain Saunders formerly of the *Science*, was loading with free females off the streets of London for these colonies, and to sail on the 15th of August. Mr. John Marshall, the agent as he calls himself to the Emigration Committee, 26 Birchin-lane, ensures these poor creatures a passage out, provided they are not more than 30 years of age and can give him £5 each. The consequence is that hundreds were daily bringing him this money, or getting themselves committed for trial to be transported in their attempts to obtain it during their nightly perambulations in the streets. It is one of the characteristics of this wonderful age that, while truth and reason are daily and hourly spreading their beneficent wings over the earth, at the very heart and centre of intelligence in the metropolis of England, the most unjust and unreasonable things are committed.”

Note 92, page 366.

The Despatch.

This was the despatch, dated 15th January, 1834 (*see* page 313 *et seq.*).

Note 93, page 376.

Lord Bathurst's despatch.

This despatch was dated 22nd April, 1817 (*see* pages 385 and 386, volume IX).

Note 94, page 379.

The Murder of Captain Waldron.

On the 14th of January, two of his female assigned servants attacked Charles Waldron at his home at Springhill, Illawarra, and threw him to the ground and otherwise ill-treated him. As a result of the assault, Waldron had a “paralytic stroke” and died fourteen days later. The two assigned servants were tried and convicted of wilful murder on the 22nd of February.

Note 95, page 382.

A Petition.

This petition was as follows:—

“THE humble petition of the free inhabitants of the Colony of New South Wales.

“To His Excellency the Governor, and the Honourable Members of the Legislative Council in Council assembled.

“Sheweth,—That a very large revenue is raised within the Colony from various sources, but chiefly by duties upon imported goods, of which, your petitioners being consumers, it follows that the revenue so raised is paid by

them, in common with the rest of His Majesty's free subjects in the Colony. And petitioners show that, although they have no voice in the imposing such duties, nor in the levying any other tax direct or indirect to which they are subjected, and although they have no power of controlling the expenditure of the revenue when raised, yet they have a deep interest in its appropriation, an interest which induces them upon the present occasion to lay an expression of their sentiments before your Excellency and your honourable Council.

" Your petitioners further show that the power of levying duties and appropriating the colonial revenue was formerly assumed by the Governor, was afterwards legalized by the 59th Geo. III, cap. 114, and now by 6 Geo. IV, cap. 83, is vested in and exercised by the Governor acting with the advice of the Legislative Council; by the 25th section of the same Act, the power so vested in the Governor and Council is by express words limited to the imposing of such taxes or duties only, 'as it may be necessary to levy for local purposes.'

" And your petitioners further show that, in a letter from the Counsel for the colonies and board of trade to the Under Secretary of State, printed by order of the House of Commons during the Session of 1832, it is stated that it had been recently decided, in the case of New South Wales, 'that the colony cannot justly be called upon to compensate any service not rendered to itself, but to a different portion of the empire; and that superannuations earned in one colony cannot with any justice be charged upon the revenue of another.'

" And yet, notwithstanding the plain meaning of the act of parliament, and the decision which appears by the foregoing extract to have been lately made by the Secretary of State, your petitioners perceive with surprize and regret, by the Estimates of the expenditure for the year 1834, that a sum of £750 is appropriated to the Colonial Secretary as a pension for services performed in England and in lieu of fees, a sum of £500 to Mr. Busby as a salary for acting as agent to the Colony in England, all of which votes of appropriation are in direct contravention of the law, and are equally opposed to those principles of equity upon which the law is founded.

" Your petitioners beg to remind your Excellency and your honourable Council, that the predecessor of the present Colonial Secretary received a salary of £1,200 per annum, which was subsequently increased to £1,500 upon the Colonial Treasury, and an additional £500 per annum was attached to the office on the appointment of the present incumbent; that, by two several returns printed by order of the House of Commons, the pension of £750 is expressly stated to be for services performed in England as Secretary of the Transport Board, and no mention is made of fees, from which facts your petitioners can arrive but at one conclusion, viz., that the £750 voted to Mr. M'Leay is by way of pension for services performed in England, and that the introduction of the words 'in lieu of fees' has been made to give a colour to the transaction, which the circumstances connected with it do not warrant.

" Your petitioners beg farther to advert to the appropriation of a sum of £500 from the revenue of New South Wales to the payment of a British resident in New Zealand. By the official letter of Lord Goderich notifying to the savages of that island the appointment of Mr. Busby, the duties of that gentleman are pointed out in the following words:—'to investigate all complaints which may be made to him, to prevent the arrival among them of men who have been guilty of crimes in their own country, and who may effect their escape from the place to which they may have been banished, and to apprehend such persons of this description as may be found at present at large.' Whilst it is evident, therefore, that there are no duties to be

performed by a resident in New Zealand, which can upon any principle of justice be charged upon the funds of this colony, any more than upon the revenue of Van Diemen's Land, your petitioners perceive with feelings of strong apprehension that, in the outline of the duties laid down by the Secretary of State, his Lordship does not even affect to shew that they bear any relation to the services for which the funds of this colony have hitherto been applied; and, if the principles be once admitted that, because the inhabitants of New South Wales trade with New Zealand, and because, from the neighbourhood of that island, persons labouring under sentence here are apt to escape to that country, your petitioners can see no reason why British residents charged upon the revenue of New South Wales should not be sent to every island in the South Seas.

“With reference to the £400 paid to Mr. Barnard, as Colonial agent in England, the duties of whose office they are unable to discover, and for what purpose it is now continued, your petitioners object altogether to this appointment being made a charge upon the Colonial Expenditure.

“That your petitioners, referring to the estimates for the Church and School Corporation, lament to find that no diminution is effected in the enormous expenditure of these establishments, which in 1826 amounted to £14,270 2s. 7½d. and for the present year is estimated at £20,629 10s., being an increase in the short space of seven years of £6,359 7s. 4¾d. Out of the above sum of £20,629 10s. the sum of £11,542 10s. is applied to the support of the Episcopalian Clergy; whilst the sum of £1,700 12s. only is allowed to the Presbyterian and Roman Catholic Clergy. From the report of the royal commission in 1830, it appears that the total number of the congregation of the Established Church throughout the colony, as certified by the Colonial Secretary, amounts only to 6,000 persons. Hence it appears that above an eighth of the Colonial expenditure is incurred for salaries to a clergy, whose pastoral charge does not embrace one sixth of the population according to the census of 1828; whilst, to all other denominations of christians who are at least equally numerous and possess an equal right to have their clergy provided for out of the same fund, the sum of £1,700 only is allotted. Your petitioners, whilst they protest against the principle of being compelled to support clergy out of the colonial revenue, respectfully contend, so long as any portion of it is so applied, that all sects have a right to an equal participation in it, according to their respective numbers.

“Your petitioners further shew that, within the last two years, a regulation has been adopted, whereby a sum of one shilling per diem has been demanded for each man sent for medical attendance to the colonial hospitals, a tax which, though apparently trifling, becomes a serious grievance to settlers residing at a distance from the hospitals. Your petitioners would respectfully represent that, although the hospital department generally, being paid from the military chest, does not form a charge upon the colonial revenue, yet the foregoing charge of one shilling forms so direct a tax upon the public, that they feel called upon to point out the expediency of revising the medical establishment by distributing hospitals and surgeons more generally in the country, and not confining them to the larger towns only, where the difficulty of procuring medical attendance is hardly felt.

“And your petitioners further shew that, in the appropriations of the revenue to the payment of salaries generally, they observe with regret that there exists a disregard to economy, most prejudicial to the welfare and the prosperity of the colony; that many civil officers receive very large salaries for duties very simple in their nature and, for the most part, executed by clerks. Without alluding to particular cases, which might appear invidious,

your petitioners would call attention to the royal commission above referred to, and the report thereupon, by which the following reductions are specially recommended, viz:—

Establishment.	Amount to be reduced.			
	£	s.	d.	
Governor and Staff	1,060	14	7	} Vide the Royal Commission, dated 1st No- vember, 1830, pages 88 to 101.
Colonial Secretary	500	0	0	
Clerks of ditto	875	0	0	
Collector of Revenue and Treasurer ..	486	0	0	
Postmaster	100	0	0	
Surveyor of Distilleries	100	0	0	
Mineral Surveyor and Public Works .	1,175	15	0	
Gaol and Hulk	100	0	0	
Master Attendants	109	0	0	
Total	£4,497	9	7	

“ They would further point out that, in the year 1821, the total expense of the civil establishment, charged upon the colonial revenue, was £17,481 5s. which, in the short space of 13 years, has been increased to £114,208 14s. 6d. That at the former period every article of consumption was hundreds per cent. dearer than at present; notwithstanding which, no material reductions of salary have taken place, but, on the contrary, civil officers have been increased in number and value, until the expenditure of the colony has attained its present enormous amount.

“ And your petitioners respectfully shew further that, although a slight saving is to be effected by the dismissal of certain clerks with petty incomes, yet it appears to them that this is beginning at the wrong end, and that it would be more just and judicious to commence the good work of economy by reducing the large salaries, and by abolishing all unnecessary and useless offices. Your petitioners are thus urgent in calling the attention of your Excellency and your Honourable Council to the subject of the payment of salaries, because there are many works of great public importance which could be accomplished if the revenue were not swallowed up by the numerous appointees of each succeeding Secretary of State.

“ That your petitioners perceive with regret that, while they have been unable to procure the vote of a salary for a colonial agent, to be appointed by the majority of the free inhabitants, a recommendation has been introduced into this year's estimates for an addition to the pension of the widow of the late Governor King; thus shewing that private influence has more weight than an earnest solicitation from the public at large.

“ That your petitioners humbly represent that, while your Excellency and Honourable Council have undoubted authority to disburse the public revenue, you cannot consistently with reason and justice dispense any portion of it in eleemosynary relief, but in paying for services actually rendered.

“ That your petitioners therefore humbly protest against the public money being in future voted in the way of pensions to any person at any time or on any account, as a principle of financial policy, subversive of the purity of every government, and as the remote and latent but sure source of future public profligacy and corruption, and of the consequent destruction of the rights and liberties of the people of these infant colonies; and your petitioners cannot but view, with the utmost dismay, this so early introduction of what has tended so much, among other means, to bring the mother country to the brink of national bankruptcy.

“ Your petitioners therefore pray your Excellency and Honourable Council to revise the estimates relative to the several matters now brought to your notice, previously to the passing of the Appropriation Act having reference particularly to the pension to the Colonial Secretary (to pensions generally); the salaries to the colonial agent, and the resident at New Zealand; and also to the reduction of salaries to civil officers of this government, as recommended by the royal commission.

“ And your petitioners, as in duty bound, will ever pray, etc.

“ Sydney, July, 1833.”

Note 96, page 384.

The mere verbal order.—The late Act of Council.

Some details of the irregular occupancy of lands will be found in note 57, volume XVI. The act of council was 4 Wm. IV, No. 9, entitled, “ An Act for appointing and empowering Commissioners to hear and determine upon Claims to Grants of Lands under the Great Seal of the Colony of New South Wales.”

Note 97, page 389.

The printed letter.

This was entitled *An Appeal on behalf of the Roman Catholics of New South Wales in a Letter to Edward Blount, Esquire, M.P. for Steyning, from Roger Therry, Esquire, Commissioner of the Courts of Requests in New South Wales, occasioned by letters addressed to him by Captain Sir Edward Parry, Knight, R.N., and the Venerable Archdeacon Broughton, with an appendix; printed by Stephens and Stokes, Sydney, 1833.* It was printed in an octavo volume of thirty-six pages, with sixteen pages of appendices.

Note 98, page 394.

My despatches named in the margin.

In the available copy of this despatch, the margin is blank. The reference was probably to the despatches dated 30th September, 1833, and 16th February, 1834 (*see pages 224 et seq. and 371 et seq.*).

Note 99, page 401.

A difference of opinion.—A somewhat similar demand.

The claims of P. Simpson and S. L. Harris were reported by Governor Darling in despatches dated 24th July, 1826, and 10th November, 1830 (*see page 434, volume XII, and page 815, volume XV*).

Note 100, page 403.

The correspondence.

The “ correspondence ” was dated 14th March and 22nd October, 1831, and 29th March, 1832 (*see pages 109, 433 and 579, volume XVI*).

Note 101, page 408.

The accompanying notices.

These notices are not filed with the original of this despatch preserved at government house, Sydney. Some of them are probably included in the emigration papers which were laid on the table of the house of commons.

Note 102, page 410.

The loss of the Prison Ship Amphitrite.

The ship *Amphitrite* sailed from Woolwich on the 25th of August, 1833. Her commander was Hunter and the surgeon Forrester, the latter's wife being a passenger. She carried one hundred and six female convicts, twelve

children and a crew of sixteen persons. After passing Dungeness on the 29th, she encountered a severe gale, and on the following day took the ground about three-quarters of a mile from the shore near Boulogne harbour. A pilot boat went out to her assistance; but this was refused by the captain, who also refused to launch the boats on account of the convicts and thinking the ship would float off at high tide. In the evening, the ship went to pieces, and only three seamen, who were washed ashore, were saved.

Note 103, page 413.

A Petition.

A copy of this petition is not available.

Note 104, page 417.

My Father's death.

The father of John Abbott was Edward Abbott, who arrived in Port Jackson in June, 1790. He subsequently held the appointments first of deputy judge-advocate and secondly of civil commandant at Port Dalrymple in Tasmania (*see* note 48, volume II, and page 282, volume IV, series III).

Note 105, pages 417, 418 and 421.

H.M.'s Instructions.—The maximum contents.

These instructions will be found on page 113 *et seq.*, volume XII. It was proposed that each county should contain as nearly as possible "forty miles square," or sixteen hundred square miles; but, in order to have natural features as boundaries, it was provided that a county might exceed or fall short of the required area by one-third part. The "maximum contents" were, therefore, two thousand, one hundred and thirty-three and one-third square miles.

Note 106, pages 419 and 596.

The Map.

This map was drawn by T. L. Mitchell, engraved by John Carmichael, and published in London in 1834. It was dedicated to the right hon. E. G. Stanley, and was limited to the area of the settled counties.

Note 107, page 424.

The Boundaries of Counties.

The boundaries of these counties as described by T. L. Mitchell have been retained to the present day. In a few instances, the calculations of the areas have been found erroneous, but in the majority these calculations are remarkably accurate.

Note 108, page 424.

Also pages 468 and 616.

The limits of the Colony.

The boundaries of the colony, within which settlers were permitted to select land, were defined as follows:—

"*On the North.*—The River Manning, from the sea-coast, westward, to the chain of mountains at the head of that river; and that chain, extending in a general direction nearly westward, from Mount Royal to a conical summit distant four and a half miles, north 46° west, from the burning hill at Wangan, and continuing thence westward, by Oxley's Peak and Pandora's Pass, to where it is intersected by a line due north from the station at Wellington Valley, so as to include all streams, valleys and ravines, which descend to the Rivers Goulburn and Hunter.

“On the West.”—The line above-mentioned to the station on the junction of the Rivers Bell and Macquarie, at Wellington Valley; thence the Macquarie to the junction of the Currigurra Rivulet at the north-western angle of the County of Bathurst; thence the western boundary of that county, as described below, and a line in continuation thereof bearing due south to the Pic of Pabral, a remarkable mountain of a conical form; and thence the mountains of Warragong, a lofty chain which extends first southward from Pabral, and then eastward.

“On the South.”—The chain of mountains extending from Mount Murray, the highest point of Warragong Chain, by the Twins, two remarkable pics in the latitude of Bateman Bay, named Tindery by the natives; and thence an east line to the Shoalhaven River at the south-western angle of the County of St. Vincent, and that river and the river Murroo, according to the county boundary, as described below, to the sea-coast.

“On the East.”—The sea-coast from the mouth of the Murroo to the mouth of the Manning.

“Contents.”—Thirty four thousand five hundred and five, 34,505 square miles, or twenty two million eighty three thousand two hundred, 22,083,200 acres.”

These boundaries, together with those of nineteen counties in brief, were announced in a government order, dated 14th October, 1829.

Note 110, page 448.

The second of the same kind.

Reference to the first claim on J. Kinchela was made in under secretary Hay's despatch dated 28th December, 1833 (*see* page 308).

Note 111, page 461.

Two Expeditions.

Notes on these expeditions will be found numbered 172 in volume XIV and 67 in volume XV.

Note 112, page 465.

The Governor of New South Wales was pleased to recommend me.

The recommendation was contained in a despatch, dated 14th April, 1831 (*see* page 244, volume XVI).

Note 114, page 470.

Measures may be taken.

The reference was to “An Act for protecting the Crown Lands of this Colony from Encroachment, Intrusion and Trespass.” Under this act, the governor was empowered to appoint commissioners of crown lands, holding the same power as bailiffs.

Note 115, pages 473, 474 and 475.

Resolutions.—The address.—Copies.

The resolutions, address and the estimates will be found in the *Notes and Proceedings of the Legislative Council* for 1834.

Note 116, pages 474 and 657.

A permanent Gaol at Berrima.

The proposal by Governor Bourke for this gaol was dated 13th June, 1834. He stated “it is proposed to erect there a substantial Gaol upon the radiating system of inspection, now generally adopted in Europe, with means of classification and suitable solitary cells.” This principle was adopted, and some of the buildings are still extant although no longer used as a gaol.

Note 117, page 475.

The Act.

This act of council was 4 Wm. IV, No. 9. The fees were: To the commissioners £6 for each and every final report made by them; and to the secretary the following fees:—

	£	s.	d.
For filing any memorial or opposition thereto at the time of filing the same	1	0	0
For every summons for witnesses, each summons containing four names, by the party requiring the same .	0	2	6
For every witness examined, or document or voucher annexed to memorial, or produced in evidence, by the party on whose behalf examined or produced	0	1	0
For taking down the examination of any witness	0	1	0
For every 100 words after the first 100 additional	0	1	0
For every certificate granted by commissioners of default, refusal to answer or wilfully withdrawing of any witness	1	0	0
For every notice of claim filed, besides the expense of advertisement	0	2	6
For every hearing by counsel, attorney or agent, by the party requiring the same	1	0	0
For every final report to be paid by the party or parties in whose favour made	2	0	0

Note 118, page 477.

A Copy.—The representation.

A copy of this letter is not available. Governor Bourke commented on the detachments at Swan river in his despatch to lord Fitzroy Somerset, dated 18th June, 1833 (*see* page 146 *et seq.*).

Note 119, page 479.

The 16 Section of the Regulations.

This section of the regulations, dated 5th September, 1826, will be found on page 541, volume XII.

Note 120, page 482.

A Copy of their Report and of the Minutes of evidence.

This report was dated 28th August, 1833, and was printed, with the evidence of A. Hallen, colonial architect, T. L. Mitchell, surveyor-general, A. Berry and G. Bunn, in the *Votes and Proceedings of the Legislative Council*.

Note 121, page 482.

One of the latter has already been established.

The first proposal for a steam boat between Parramatta and Sydney was contained in a letter from H. G. Smith to Sir George Murray, dated 29th April, 1830 (*see* page 463, volume XV). The first vessel to initiate the service was named the *Surprise*. This vessel was eighty feet long, was built at Neutral bay, Sydney, and was launched on the 31st of March, 1831. She ran between Sydney and Parramatta from July to December, 1831. In 1833, the paddle steamer *Australia* was employed on the Parramatta run.

Note 122, page 484.

The minutes of proceedings.—The printed pamphlet.

In this inquiry into the identity of Jane New, the evidence tendered by John Stephen, jr., was largely a repetition of the details contained in the papers enclosed with Governor Darling's despatch dated 29th June, 1829, and Sir George Murray's despatch dated 12th August, 1830 (*see* pages 33 *et seq.* and 678 *et seq.*, volume XV).

The printed pamphlet was a *Reply to Major-General Darling's "Statement in Refutation of Accusations made by Mr. Hume, M.P., and Others against Lieut.-General Darling, Governor of New South Wales,"* by John Stephen, jun., printed at London in 1832. It was an octavo pamphlet containing thirty-eight pages. Governor Darling's statement will be found on page 851 *et seq.*, volume XV.

Note 123, page 485.

These returns.

These returns have been omitted as they were included in the annual returns printed in the *Votes and Proceedings of the Legislative Council*.

Note 124, page 488.

The Colonial employments.

Kenneth Snodgrass was a member of the executive council, a member of the legislative council and major of brigade.

Note 125, page 492.

A copy of the Bill.

This was the second statute passed for the administration of justice at Norfolk island, the first being 34 Geo. IV, c. xlv, passed on the 9th of May, 1794 (*see* page 24 *et seq.*, volume 1, series IV). By this last statute, a criminal court had been established for the trial of offenders on the island. When Norfolk island was evacuated in 1814, this court lapsed and was not revived on the re-occupation of the island in 1825.

Note 126, pages 495 and 496.

The appropriation Act.—Protests.—List of Ships.—Receipt of the Land Revenues.

The appropriation act was 5 Wm. IV, No. 5. The protests and the list of ships will be found in the *Votes and Proceedings of the Legislative Council*. A copy of the account of the land revenues is not available.

Note 127, pages 495 and 496.

This objection has been so lately replied to.—The recent instruction.

These references will be found in the despatch dated 30th April, 1833 (*see* page 89).

Note 128, page 496.

A Public Meeting of the Free Inhabitants.

This meeting was held at the court-house with J. Mackaness in the chair, when the following resolutions were proposed and carried:—

"That it is the opinion of this meeting that the proceeds, derived from the lands of the colony whether by sale, lease or other reservations of quit-rents on grants, are part of the public revenue" (moved by W. C. Wentworth and seconded by R. Johnstone).

“That this principle is not only founded in equity, but has always been sanctioned by the British Government until the adoption of the new regulations, whereby it was settled that all the land in the Colony should for the future be sold; and that, even upon the promulgation of these regulations, it was distinctly understood by the Colonists that the funds raised by the sale of lands should be applied for the benefit of the Colony; and the Colonists were induced, by the pledge of the Secretary of State that the whole of such funds should be appropriated in promoting the emigration of free and useful labourers and mechanics and young females of good character, to acquiesce in a measure which was generally considered injurious to the interests of the Colony” (moved by Revd. R. Mansfield and seconded by G. Forbes).

“That this meeting views with surprise and alarm the late direction of the Secretary of State to divert a portion of these funds, under the novel denomination (at least in the Colony) of Droits of the Crown, to the payment of a pension which the same authority has admitted cannot be justly saddled upon the Colony” (moved by W. Lawson and seconded by W. Bland).

“That such appropriation is illegal, being confessedly in contravention of the express words of the Act of Parliament, commonly called the New South Wales Act; it is unjust upon any plea, inasmuch as the revenue of the colony raised from other sources more than defrays all the expenses of the colonial government properly so called, and these are ample” (moved by R. Hipkiss and seconded by W. Howe).

“That it was the bounden duty of the colonists to resist this attempt by all constitutional means, and that this meeting pledges itself so to do” (moved by W. Williams and seconded by J. Chisholm).

“That, while this meeting considers the appropriation of this branch of the revenue under the direction of the Secretary of State as a matter of paramount importance, it also feels bound to observe that the estimates generally are extravagant in their amount; that many salaries of the public officers are utterly disproportioned to the duties which they are to perform; that many offices are wholly unnecessary to the public service; and that by these means large sums are diverted from the true objects to which they ought, in justice to the interests of the colony, to be applied” (moved by F. Stephen and seconded by J. B. Bettington).

Note 129, page 498.

The representation.

This “representation” was contained in a despatch to the hon. J. Stewart, dated 20th January, 1834 (*see* pages 342 and 343).

Note 130, page 506.

A specific provision.

By section V of the statute 4 Geo. IV, c. xevi, it was provided: “That it shall be lawful for His Majesty, His Heirs and Successors, by his or their Instruction under His or their Royal Sign Manual, at any Time hereafter to authorize the Governor or Acting Governor of New South Wales for the Time being to convene a Court or Courts, as often as Occasion may require, for the Trial of all Crimes and Misdemeanors committed within any Place or Places in New South Wales or Van Diemen’s Land, or the Dependencies thereof, which, by any Order in Council to be for that purpose issued as after mentioned, shall be appointed for the Reception of transported Felons and other Offenders; which Court or Courts shall be of Record, and shall have and exercise all the Powers and Authorities incident and belonging to a Court of Record, and shall consist respectively of a Judge to be appointed

by His Majesty, His Heirs and Successors, and such and so many proper Persons, not fewer than Three nor more than Five, as shall be appointed for such Purpose by Such Governor or Acting Governor by Commission to be duly made and executed under His Hand and Seal."

A similar provision was included in the statute, 9 Geo. IV, c. lxxxiii.

Note 131, page 514.

These letters.

The contents of these letters will be found in lord Glenelg's despatch in reply dated 3rd July, 1835 (*see* volume XVIII).

Note 132, pages 520 and 533.

Resolutions of adherence.—22d Section.

These resolutions were printed in the *Votes and Proceedings of the Legislative Council*, dated 26th August, 1834, and were as follows:—"Resolved unanimately, upon a review of such representation, and of the said Law or Ordinance, that Council do adhere to the same."

By the 22nd section of the statute, 9 Geo. IV, c. lxxxiii, it was provided that every act should within seven days from its date be transmitted to the supreme court for enrolment. The judges were then allowed a further period of seven days within which to represent to the governor any objection entertained on the ground of its supposed repugnancy to the law of England. Such an objection was then considered by the legislative council; but, if the council adhered to the act, such act had full effect until the royal pleasure was known.

Note 133, pages 520 and 521.

The most important feature.—The preamble.

This "feature" was contained in the 1st section which was quoted *in extenso* by W. W. Burton (*see* page 524). The preamble to the first bush-ranging act, 11 Geo. IV, No. 10, was as follows:—"Whereas the crimes of Robbery and Housebreaking have increased to an alarming degree, and it is become necessary to restrain the same as much as possible by temporary provision suited to the emergency of the occasion."

Note 134, pages 522 and 537.

The case.—My Letter.

The judgment by W. W. Burton in the case of *Macdonald v. Levy* and the letter will be found in the *Votes and Proceedings of the Legislative Council*.

Note 135, page 523.

This being the last day allowed.

The acts of council 5 Wm. IV, Nos. 9 and 10, were passed on the 5th of August, 1834. Seven days were allowed for their enrolment in the supreme court and a further seven days for a protest by a judge. Thus the 19th of August was the "last day."

Note 136, page 541.

Two petitions.

These petitions were from settlers in the district of Hunter river and from those in the districts of Newcastle and Port Stephens. They were printed in the *Votes and Proceedings of the Legislative Council*.

Note 137, page 541.

A Pamphlet.

This was an octavo pamphlet of thirty-seven pages, printed by Anne Howe, 1834, and entitled, *Observations on the "Hole and Corner Petition" in a Letter to the Right Honorable Edward G. Stanley, principal secretary of state for the Colonial Department, by an unpaid Magistrate.*

Note 138, pages 542 and 543.

A pamphlet.—A copy.

This pamphlet was entitled *Vindication of James Mudie and John Larnach from certain reflections on their conduct, contained in letters addressed to them respectively, through the Colonial Secretary of New South Wales, by order of His Excellency Governor Bourke, relative to the treatment by them of their Convict Servants; together with the minutes of evidence taken before two Commissioners of Enquiry, appointed by His Excellency to investigate the conduct of the Bench of Magistrates at Patrick's Plains towards prisoners of the Crown, and also that of Messrs. Mudie and Larnach, assignees of prisoners.* This pamphlet contained one hundred and thirty-nine pages octavo, and was printed by E. S. Hall at Sydney in 1834. The letter from the colonial secretary and the depositions were included in the pamphlet.

Note 139, page 544.

The Contractor.

In the year 1834, the contract for printing the *Government Gazette* and official documents was held by W. Jones of Bridge-street, Sydney, where he carried on business as a "letterpress and copper-plate printer."

Note 140, page 551.

The Govt. notice.

A copy of this notice will be found in note 116, volume XVI.

Note 141, page 558.

The disabilities.

These disabilities were noted by Governor Bourke in his despatch dated 20th November, 1832 (*see* pages 804 and 805, volume XVI), and were discussed by the right hon. E. G. Stanley in his despatch dated 4th September, 1831 (*see* page 210).

Note 142, page 581.

His infirmities.

Governor Bourke reported the deafness of John Kinchela in his despatch, dated 19th September, 1832 (*see* page 746, volume XVI).

Note 143, page 596.

The Colonial Gazette.

The despatches from G. R. Lambert and Edward Johnstone were dated 1st November and 31st October, 1834, and contained reports on the expedition. H.M. ship *Alligator* and the schooner *Isabella* arrived off the coast of New Zealand on the 12th of September. The rescue was delayed by heavy weather. Negotiations were first opened with the Maoris at "Nummo," when it was ascertained that Mrs. Guard and her children had been removed to "Wyamati" in the district of "Taranachee," and that the natives refused to surrender the captives without a ransom. On arrival at "Mattaroa" on

the 20th, the crew of the *Harriet* were demanded and immediately given up. On the 25th at "Nummo," the Maoris refused to surrender Mrs. Guard and her children. Accordingly, on the 28th, captain Johnstone and thirty soldiers and marines landed and attacked and destroyed the Maori pah, and captured the chief; but Mrs. Guard and children had been removed. She and the youngest child were exchanged three days later for the chief. The eldest child was not recovered until the 8th of October, after the bombardment, capture and destruction of two more pahas. There were many casualties amongst the Maoris, but none amongst the military and marines.

Note 144, page 600.

A copy.

Reports by P. L. Campbell and C. Forbes on obtaining the copy for Governor Bourke will be found on pages 654 and 655.

Note 145, page 604.

The Petitions.

These were petitions from settlers at Hunter river and at Newcastle and Port Stephens, which were printed in the *Votes and Proceedings of the Legislative Council* for the 22nd of August, 1833.

Note 146, page 604.

A Copy.—Replies.

The circular letter from the colonial secretary and the replies by the magistrates were printed in the *Votes and Proceedings of the Legislative Council* for the 8th of April, 1834.

Note 147, page 606.

Returns.—Census Returns.

The returns of convictions will be found in a volume in series IV. A summary of the census returns for 1828 will be found on page 376, volume XV, and of those for 1833 in note 85.

Note 148, pages 622 and 640.

The dates.—The Duplicate.

In the transmission of the despatches from the colony, the original and duplicate copies were sent by separate ships. Sometimes the duplicate despatch was received before the original, and this was frequently the copy filed for reference, and now preserved in the record office, London. The result is that no complete set of the originals or of the duplicates is preserved in one office. The errors of the clerk in copying the duplicate, as mentioned in the despatch on page 622, explain the not uncommon acknowledgment of a despatch under a different date to the available copy of the despatch.

Note 149, page 627.

Three of them.

These were the great south road which extended one hundred and ninety miles to Corwarey on the Shoalhaven river, about twelve miles below its source; the great western road which extended two hundred and thirty-one and a half miles to Wellington valley; and the great northern road which extended one hundred and ninety-eight miles to the commencement of Liverpool plains.

Note 150, page 628.

A third Banking Establishment.—A fourth Bank.

The third bank was the Commercial banking company of Sydney. The preliminary public meeting for the formation of this bank was held at the Pulteney hotel, Sydney, on the 12th of September, 1834. This meeting was summoned by an advertisement signed by Leslie Duguid as "interim secretary." The advertisement commenced with the statement, "it is proposed to institute an additional Discount Bank in Sydney, to be conducted on the principle of the Scotch Banks, and, with a view of affording to the Community at large greater facility in the transaction of money matters, to Discount at least three times a week." Comment was made on the practise of the existing banks discounting only one day a week and on the high premiums on their shares. It was considered that a company of twelve hundred shares of £100 each was sufficient; but, as the shares had been already subscribed, the meeting was called to consider the advisability of extending the shares to fifteen hundred.

The meeting was largely attended and was presided over by W. Macpherson. The most important proposal was made by Thomas Burdekin, when the capital was fixed at £300,000, divided into three thousand shares. It was expected that the calls *per share* would be £10, and possibly not more than £7 10s. It was decided that 5 *per cent.* interest should be paid on fixed deposits for three months, and 2½ *per cent.* on current accounts.

The deed of settlement of the proprietors was ready for signature on the 1st of November, and premises for the bank were secured at No. 1 Colonnade, Bridge-street, Sydney.

The first directors were W. Macpherson, chairman; J. Lamb, deputy chairman; T. Barker; R. Scott; R. Johnson; T. Marsden; R. Howe; F. A. Hely; J. T. Goodsir; J. H. Grose; R. Therry; and T. P. Macqueen. Leslie Duguid was appointed managing director and cashier.

The fourth bank was the bank of Australasia, of which an abridged prospectus was published by J. Barrow Montefiore and Co., acting for the directors, in August, 1834. In this prospectus, it was announced that the company was incorporated by royal charter for the purpose of establishing banks of issue and deposit in Australasian settlements. The capital was fixed at five thousand shares of £40 each, five hundred of which were to be reserved for allotment in the colonies. It was to be controlled by a board of twelve directors in London. By advertisement dated 1st November, 1834, it was announced that W. Hayward, R. Campbell, jr., W. Dawes and J. Barrow Montefiore had been appointed local directors, and that applications for shares should be made to the last named director at O'Connell-street, Sydney. Of the five hundred colonial shares, three hundred were reserved for allotment in New South Wales, and two hundred in Tasmania.

Note 151, pages 630 and 632.

This Building being at least one Mile distant.—The old site.

The court-house was in the building now occupied by the supreme court at the corner of King and Elizabeth streets, Sydney, and the site of the new gaol was at Darlinghurst, now occupied as a technical school. The site of the old gaol was at the north-western corner of George and Essex streets.

Note 152, page 631.

The present asylum.

The lunatic asylum was at Liverpool in a building formerly occupied by the bench of magistrates. The previous asylum had been at Castle hill (*see* note 167, volume XIV).

Note 153, page 631.

A former occasion.

The reference was to the despatch dated 8th July, 1834 (*see* page 473 *et seq.*).

Note 154, page 632.

This letter.

A copy of this letter will be found on page 51, volume IV, series III.

Note 155, page 640.

Sir Richard Bourke.

Richard Bourke was created a knight commander of the most honourable order of the Bath on the 26th of January, 1835.

Note 156, page 642.

The general order.—A Govt. notice.

The general order, dated 1st August, 1831, will be found in note 116, volume XVI. The notice, dated 6th March, 1832, was as follows:—

“His Excellency the Governor directs it to be notified that His Majesty’s Government have revised the system of granting land in the Colonies of North America and Australia, so as to ensure to Officers of the Army, wishing to become settlers, the combined advantages arising from rank and length of service.

“2. In future, therefore, Military Officers, purchasing land according to the Regulation established in the respective Colonies, will, in proportion to their rank and services, be entitled to a remission of purchase money, according to the following graduated scale, on producing testimonials of unexceptionable character from the General Commanding-in-Chief, viz.:—

“ Field Officers	Of 25 years’ service and upwards, in the whole	£300
	Of 20 years’ service and upwards, in the whole	250
	Of 15 years’ service or less, in the whole	200
“ Captains	Of 20 years’ service and upwards, in the whole	200
	Of 15 years’ service or less, in the whole	150
“ Subalterns	Of 20 years’ service and upwards, in the whole	150
	Of 7 years’ service or less, in the whole	100

“3. Officers of His Majesty’s Navy and Marines will be entitled to a similar remission according to their relative rank and service.”

Note 157, page 647.

The late Dr. Wardell.

On the 8th of September, 1834, R. Wardell was riding on his estate at Petersham, near Sydney, when he found three convict absconders camped at a hut which they had erected on his property. Wardell endeavoured to persuade the convicts to come with him as absconders under arrest, whereupon one of the convicts picked up a gun and shot Wardell mortally in the breast while sitting on his horse. The horse immediately galloped away with the body, which was found later some distance from the hut. Of the three convicts, one turned approver. The other two were arrested and tried before the chief justice and a civil jury on the 7th of November; one was found guilty of wilful murder, and the second as principal in the second degree.

Note 158, page 647.

The margin.

The margin is blank in the copy of this despatch which is available. The murderers of R. Wardell were captured on the 12th of September.

Note 159, page 648.

The Regulations.

The regulations dated 1st August, 1831, will be found in note 116, volume XVI. The regulations, dated 21st August, 1831, were as follows:—

“The Governor directs it to be notified, with reference to the Government Order of the 1st Instant, No. 22, detailing the ‘Land Regulations,’ and the Government Notices of the same date, relating to ‘Leases’ and to ‘Lands rented with a view to purchase,’ that, in pursuance of the Instructions received from the Secretary of State for the Colonies, His Excellency has taken into consideration, in Council, the subject of the Land *purchased* under the authority of the late Government, the period within which *Arrears of Rent* should be required to be paid and the rate of *Quit-rent* to be charged upon *Grants without purchase*; and that the following Regulations have been laid down in these cases respectively, viz.:

“*Purchases prior to 1826.*

“1. Those persons, who obtained permission to purchase land at a credit of three years, under the Regulations dated 5th November, 1823, will be allowed until the 1st of October next to signify their choice of the following modes of settlement, namely:—

“ (1) Either to fulfil the original conditions, by immediately completing the payment of the sum of five shillings per acre for the whole quantity of land they agreed to purchase;

“ (2) Or to surrender the whole, forfeiting all payments already made;

“ (3) Or to complete the purchase, at five shillings per acre of any part of the land now in their occupation, not being less than one square mile, by paying to the Collector of Internal Revenue a deposit of ten per cent. (if not already paid), as soon as their selection is approved; the remainder within one month thereafter; and also rent, as pointed out in paragraph 9, calculated at the rate of sixteen shillings and eight pence per hundred acres per annum, for the whole quantity of land they agreed to purchase, from the date of that agreement until the 31st of July last.

“2. The foregoing election will be open also to those persons, who notified their wish to accept the conditions provisionally offered by the Government Notice of 23rd October, 1828, of paying up one shilling and eight pence, and a yearly quit-rent of two pence per acre; as the instructions received from the Secretary of State do not admit of the arrangement then proposed being carried into effect.

“3. The choice of the three modes of settlement above detailed will likewise be extended to those persons who obtained permission, under the Regulations dated 18th May, 1825, to purchase land at such a valuation as should be afterwards determined by the Commissioners for apportioning and valuing the Territory; the price being now fixed at five shillings per acre.

“In the event of their surrendering the whole of the land, they will be required to pay rent for the intermediate use of it, as pointed out in paragraph 9, at the rate of two-pence per acre per annum, from the date of obtaining possession, until the 31st of July, 1831.

“4. To those persons who, under the regulations of 5th November, 1823, were allowed to occupy lands as *New Settlers* at a rent of fifteen shillings per hundred acres, for three years previous to their being required to notify their final intention with regard to purchase, the period will, in like manner,

be extended to the 1st of October next for intimating their choice of the following terms, viz. :—

- “ (1) Either to abandon the land, paying up the stipulated rent of fifteen shillings per hundred acres per annum for three years;
- “ (2) Or to complete the purchase of the whole, at five shillings per acre, by paying immediately to the Collector of Internal Revenue a deposit of ten per cent.; the remainder by instalments as originally stipulated within six years from the date of obtaining possession; and also rent for three years, as specified in paragraph 9, calculated at the yearly rate of fifteen shillings per hundred acres.
- “ (3) Or to purchase any portion of the land now in their possession, not being less than six hundred and forty acres, at the rate of five shillings per acre, by paying immediately a deposit of ten per cent.; the remainder of the purchase money in one month; and (in this case) rent, as pointed out in paragraph 9, upon the whole quantity originally occupied, from the date of possession until the 31st of July last.

“ 5. All parties, who are desirous of retaining a portion of the land before held by them under any of the Regulations herein alluded to, will be required to describe the exact boundaries of the particular spot to the Surveyor General with as little delay as possible, in order that he may point out whether the selection be conformable to the established Rules.

“ 6. In the event of the required notifications not having been made by the 1st of October next, the parties will be considered as having relinquished all intention to purchase, and the lands will be thrown open for sale under the Regulations contained in the Government Order of the 1st instant, No. 22.

“ 7. In accordance with the original conditions, a quit-rent of two shillings per hundred acres per annum, redeemable at twenty years' purchase, will be reserved upon all lands sold under the Regulations of 5th November, 1823.

“ Arrears of Rent on Lands occupied for purchase.

“ 8. The rent of all lands occupied with a view to purchase, will be calculated at the rate of two-pence per acre, or sixteen shillings and eight-pence per hundred acres per annum, with the exception of those held by *New Settlers* under the Regulations of 5th November, 1823, which will be calculated at the yearly rate of fifteen shillings per hundred acres, as mentioned in paragraph 4.

“ 9. Persons, who shall not retain any portion of the land now in their possession, will be required to pay up the whole amount of rent due before the 1st of December next. But those, who may complete the purchase of the whole or any part of the lands now held by them (in the manner pointed out above), will not be required to pay the arrears of rent until the 1st of August, 1832. Should they be unable to pay them up at that time, they will be allowed to discharge the balance remaining due by four quarterly instalments, with Bank interest thereon, entering into security for the same.

“ 10. The title-deeds of lands purchased from the Crown will not be delivered to the parties until all arrears of rent which may be due thereon are paid up, as well as the purchase money; and if the purchaser fail to pay the rent within the prescribed period, or to give security for the same, to the Collector of Internal Revenue, the land will be sold to the highest bidder, after having been advertised for one month. The amount of rent due will in that case be deducted from the proceeds of the sale, and the overplus; if any, paid over to the proprietor.

“ Lands granted on the condition of paying quit-rent.

“ 11. The quit-rent upon all grants of land, both primary and additional, given since the publication of the King's instructions on 18th May, 1825,

has now been fixed at the rate of two pence per acre, or sixteen shillings and eightpence per hundred acres per annum

" 12. The same rate will also be charged upon *additional grants*, from the date of the authority to take possession, instead of the rent of twenty shillings per hundred acres, directed by the Government Order, No. 35 of 5th September, 1826.

" 13. Persons desirous of retaining their grants under these conditions will be required to pay up all arrears of rent due to the 31st of July last, at the said yearly rate of two pence per acre, by two equal quarterly instalments.

" 14. Any persons, who may not be desirous of retaining the land, will be permitted to surrender it on immediately paying up their arrears of rent, calculated at the same rate.

" 15. Their decision must be notified before the 1st of October next.

" All persons interested in any part of the foregoing arrangements are requested to communicate immediately with the Collector of Internal Revenue, who has received instructions to inform them of all further particulars."

Note 160, page 649.

A letter.

A copy of this letter is not available. In acknowledging this despatch, Lord Glenelg merely approved of a rent at the rate of two shillings and sixpence for every one hundred acres.

Note 161, page 653.

Former correspondence.

The reference was to despatches dated 19th September and 14th December, 1834 (*see* pages 539 *et seq.* and 600 *et seq.*).

Note 162, page 654.

In the newspaper.

The "Hole and Corner" petition caused much public discussion, and, in the *Sydney Gazette* alone, the leaders in the issues dated 1st July, 26th and 28th August, and 11th and 20th September, 1834, were devoted to criticism on it.

Note 163, page 655.

The Station I held on The Governor's Staff.

P. L. Campbell was police magistrate at Maitland.

Note 164, page 671.

A pecuniary recompence.

By resolution dated 12th September, 1834 (*see* page 512), the emigration committee proposed that a gratuity of £50 should be paid to the superintendents on each voyage for efficient service.

Note 165, page 675.

An extract of a Despatch.

The reference was probably to the despatch by Viscount Goderich dated 29th March, 1833 (*see* page 63).

Note 166, page 681.

This letter.

This was a protest against the presumed conditions controlling the establishment of the bank of Australasia (*see* lord Glenelg's despatches, dated 28th September and 9th July, 1835, in volume XIV).

Note 167, page 684.

The claim has been already disallowed.

Viscount Goderich refused the application of Burman Langa for a land grant and town allotment in a despatch dated 17th September, 1831 (*see* page 356, volume XVI).

Note 168, page 684.

This list of titles.

The substance of the titles of these acts was contained in the despatch dated 26th November, 1833 (*see* page 269 *et seq.*).

Note 169, page 685.

Public events.

The reference was to the stirring political events during the short administration of Sir Robert Peel from the 20th of December, 1834, to the 8th of April, 1835.

Note 170, pages 685, 686 and 690.

The doubt.—The Instructions.—The opinion.

The opinion of chief justice Forbes that the government had no power to order a convict to hard labour in chains will be found on page 331 *et seq.* The instructions for such punishment were given by the right hon. E. G. Stanley in his despatch dated 21st August, 1833 (*see* page 197 *et seq.*).

Note 171, page 720.

Lord Glenelg.

The right hon. Charles Grant was created Lord Glenelg after his accession to office as secretary of state for the colonies.

Note 172, page 727.

The Emigrants.

In a second copy of this letter, the following additional paragraph was added:—

“I understand that a certain sum of about £10 will be paid to Mrs. Marsden in consideration of her taking charge as Matron. But I should also hope that his Excellency will be pleased to take her case into consideration. She is very well adapted to take charge of a school, in which capacity she would not be obliged to part with her two youngest children. Her eldest daughter has received a good education, and would be of great service to her mother. She is at present at Colonel Mackenzie’s at Glenfield.”

Note 173, page 742.

The measure of 1833.—My Despatch.

This was the act of council, 4 Wm. IV, No. 12, which was transmitted by Governor Bourke with his despatch, dated 12th September, 1833 (*see* page 213 *et seq.*).

Note 174, page 751.

These regulations.

These regulations were published annually in the *New South Wales Calendar and General Post Office Directory*.

SYNOPSIS OF DESPATCHES

From	To	Dated	Despatch endorsed	Transmitted per—	See page	Acknowledged by—	Date of acknowledgment.
Bourke, Governor	Goderich, Viscount.....	1833.	No. 1	Ship Brothers	2		1833.
Do	Hay, Under Secretary	1 Jan.	No. 2	do	3		
Do	Goderich, Viscount.....	2 Jan.	No. 3	do	5	Stanley, Right Hon. E. G.	6 June.
Do	do	4 Jan.	No. 4	do	2		
Do	do	4 Jan.	No. 5	do	5	Stanley, Right Hon. E. G.	26 June.
Do	Hay, Under Secretary	5 Jan.		do	6	do	20 July.
Do	do	6 Jan.	No. 6	do	6	Lefevre, Under Secretary.	30 Aug.
Do	Goderich, Viscount.....	7 Jan.	No. 7	do	2		
Do	do	8 Jan.		do	2		
Hay, Under Secretary	Bourke, Governor	9 Jan.		Ship Asia.....	8		
Bourke, Governor	Hay, Under Secretary	15 Jan.		Ship Brothers	13		
Hay, Under Secretary	Bourke, Governor	16 Jan.		Ship Asia.....	14		
Bourke, Governor	Goderich, Viscount.....	16 Jan.	No. 8	Ship Brothers	14		
Hay, Under Secretary	Bourke, Governor	17 Jan.		Ship Asia.....	16	Stanley, Right Hon. E. G.	26 June.
Bourke, Governor	Goderich, Viscount.....	18 Jan.	No. 9	Ship Brothers	16		
Do	do	19 Jan.	No. 10	do	2		
Do	do	19 Jan.	No. 11	do	2		
Do	do	21 Jan.	No. 12	do	2		
Do	do	22 Jan.	No. 13	do	2		
Do	do	23 Jan.	No. 14	do	17	Stanley, Right Hon. E. G.	26 June.
Do	do	24 Jan.	No. 15	do	19	do	13 Nov.
Do	do	25 Jan.	No. 16	do	21	do	22 Aug.
Do	do	1 Feb.	No. 17	do	22	do	19 Aug.
Do	do	2 Feb.	No. 18	do	22	do	26 June.
Do	do	4 Feb.	No. 19	do	25	do	5 Sept.
Do	do	5 Feb.	No. 20	do	26		
Do	Bourke, Governor	6 Feb.	No. 150	Ship Asia.....	1		
Do	do	6 Feb.		do	30		
Goderich, Viscount	Goderich, Viscount.....	7 Feb.	No. 20	Ship Brothers	2		
Hay, Under Secretary	do	7 Feb.	No. 21	do	2		
Bourke, Governor	do	8 Feb.	No. 22	do	2		
Do	do	8 Feb.	No. 23	do	30	Stanley, Right Hon. E. G.	20 July.
Do	do	8 Feb.	Private	do	31		
Do	do	9 Feb.	Private	do	32		
Do	do	9 Feb.	Circular	do	32		
Do	Hay, Under Secretary	14 Feb.		Ship Sovereign	32	Stanley, Right Hon. E. G.	8 Sept.
Do	Bourke, Governor	1 Mar.		Ship Captain Cook	33		

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Stanley, Right Hon. E. G.	Bourke, Governor	1833. 18 April	No. 6	Ship Captain Cook	75	1833.
Hay, Under Secretary	do	18 April	.....	Ship Lord Lynedock	75	.....	.....
Do	do	18 April	.....	do	76	.....	.....
Do	do	19 April	.....	Ship Captain Cook	78	Bourke, Governor	28 Sept.
Stanley, Right Hon. E. G.	do	20 April	No. 7	do	78	.....	.....
Hay, Under Secretary	do	21 April	.....	do	79	.....	.....
Do	do	22 April	.....	do	85	.....	.....
Do	do	24 April	.....	do	86	.....	.....
Do	do	26 April	.....	do	86	.....	.....
Do	do	28 April	.....	do	87	.....	.....
Stanley, Right Hon. E. G.	do	29 April	No. 8	do	87	.....	.....
Do	do	30 April	No. 9	do	88	.....	.....
Do	do	30 April	No. 10	do	90	.....	.....
Hay, Under Secretary	do	1 May	No. 37	Ship Clyde	92	Stanley, Right Hon. E. G.	5 Nov.
Bourke, Governor	do	1 May	No. 38	do	93	.....	.....
Do	Goderich, Viscount	1 May	.....	do	95	.....	1834.
Do	do	1 May	No. 39	do	99	.....	25 July.
Do	do	2 May	Private	do	100	.....	.....
Do	do	.....	No. 40	do	.....	.....	.....
Do	do	2 May	.....	do	.....	.....	.....
Do	do	2 May	No. 41	do	100	Stanley, Right Hon. E. G.	1833.
Do	Stewart, Hon. J.	2 May	.....	do	100	.....	.....
Do	do	3 May	No. 42	do	102	.....	28 Sept.
Do	Goderich, Viscount	6 May	.....	do	102	Stanley, Right Hon. E. G.	28 Sept.
Do	do	6 May	No. 43	do	.....	.....	.....
Do	do	6 May	No. 44	do	2	.....	.....
Do	do	10 May	No. 45	do	115	.....	7 Nov.
Do	do	10 May	No. 46	do	120	Stanley, Right Hon. E. G.	18 Nov.
Do	do	15 May	No. 47	do	2	do	.....
Do	do	15 May	No. 48	do	3	.....	.....
Do	do	16 May	.....	do	120	Hay, Under Secretary	10 Nov.
Do	Hay, Under Secretary	17 May	No. 49	do	122	.....	.....
Do	Goderich, Viscount	17 May	No. 50	do	3	.....	.....
Do	do	18 May	No. 51	do	122	.....	.....
Do	do	18 May	No. 52	do	123	Stanley, Right Hon. E. G.	28 Sept.
Do	do	18 May	.....	do	128	do	5 Nov.
Hay, Under Secretary	Bourke, Governor	22 May	No. 11	Ship Lord Lynedock	129	Bourke, Governor	5 Dec.
Stanley, Right Hon. E. G.	do	23 May	.....	do	129	.....	.....
Hay, Under Secretary	do	24 May	.....	do	130	.....	.....
Do	do	25 May	.....	do	.....	.....	.....
Bourke, Governor	Hay, Under Secretary	25 May	Ship Adventurer	130	Hay, Under Secretary	10 Nov.

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Hay, Under Secretary	Bourke, Governor	1833. 26 May	Ship Lord Lynedock	131	Bourke, Governor	1833. 22 Nov.
Do	do	27 May	.....	do	132	.....	.....
Stanley, Right Hon. E. G.	do	30 May	Circular	Ship Aurora	133	.....	.....
Do	do	31 May	No. 12	do	133	.....	.....
Do	do	5 June	No. 13	do	133	.....	.....
Do	do	6 June	No. 14	do	134	.....	.....
Hay, Under Secretary	do	7 June	Circular	do	134	.....	.....
Stanley, Right Hon. E. G.	do	8 June	.....	do	134	.....	.....
Hay, Under Secretary	do	8 June	.....	do	135	.....	.....
Do	do	9 June	Private	do	135	.....	.....
Do	do	10 June	.....	do	1	.....	.....
Do	do	11 June	.....	do	135	.....	.....
Stanley, Right Hon. E. G.	do	12 June	No. 15	do	136	.....	.....
Hay, Under Secretary	do	13 June	.....	do	136	.....	.....
Stanley, Right Hon. E. G.	do	14 June	No. 16	do	137	.....	.....
Do	do	15 June	No. 17	do	142	Bourke, Governor	1834. 10 Oct.
Bourke, Governor	do	18 June	No. 9	Ship Adventurer	146	.....	.....
Stanley, Right Hon. E. G.	Somerset, Lord Fitzroy	22 June	No. 18	Ship Aurora	150	.....	.....
Do	Bourke, Governor	23 June	No. 19	do	1	.....	.....
Do	do	24 June	No. 20	do	151	.....	.....
Do	do	25 June	No. 21	do	152	.....	.....
Do	do	26 June	No. 22	do	152	.....	.....
Bourke, Governor	Goderich, Viscount.	27 June	No. 53	Ship Adventurer	154	.....	.....
Do	do	29 June	No. 54	do	155	.....	.....
Do	Hay, Under Secretary	29 June	.....	do	157	.....	.....
Do	Bourke, Governor	2 July	.....	Ship Aurora	1	.....	.....
Do	do	3 July	.....	do	158	.....	.....
Bourke, Governor	Hay, Under Secretary	3 July	.....	Ship Alice	159	Hay, Under Secretary	1833. 10 Nov.
Do	do	3 July	.....	do	160	do	10 Nov.
Stanley, Right Hon. E. G.	Bourke, Governor	4 July	No. 23	Ship Neva	1	.....	.....
Bourke, Governor	Goderich, Viscount	8 July	No. 55	Ship William Stoveld	161	Stanley, Right Hon. E. G.	1834. 26 March.
Do	do	8 July	No. 56	do	165	do	.....
Do	do	15 July	.....	do	166	.....	.....
Do	Hay, Under Secretary	20 July	No. 24	Ship Neva	167	.....	.....
Stanley, Right Hon. E. G.	Bourke, Governor	21 July	No. 25	do	168
Do	do	22 July	No. 26	do	168
Do	do	23 July	No. 27	do	169

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Stanley, Right Hon. E. G.	Bourke, Governor	1833. 24 July	No. 28	Ship Neva	1	Bourke, Governor	1833.
Do	do	20 July	No. 29	do	171	do	6 Dec.
Bourke, Governor	Goderich, Viscount	1 Aug.	No. 57	Ship William Stoveld	176	Stanley, Right Hon. E. G.	1834.
Do	do	2 Aug.	No. 58	do	177	do	17 Feb.
Do	do	3 Aug.	No. 59	do	180	do	7 Feb.
Do	do	4 Aug.	No. 60	do	183	do	25 May.
Do	Hay, Under Secretary	4 Aug.	No. 61	do	3	do	8 Feb.
Do	Goderich, Viscount	5 Aug.	No. 62	do	184	Stanley, Right Hon. E. G.	7 Feb.
Do	do	6 Aug.	No. 63	do	3	do	do
Do	do	6 Aug.	No. 63	do	3	do	do
Do	Hay, Under Secretary	7 Aug.	No. 64	do	185	do	do
Do	Bourke, Governor	10 Aug.	No. 65	Ship Lloyds	186	do	do
Do	do	11 Aug.	No. 66	do	187	do	do
Stanley, Right Hon. E. G.	do	17 Aug.	No. 30	do	187	do	do
Bourke, Governor	Hay, Under Secretary	17 Aug.	No. 31	Ship William Stoveld	190	do	do
Lefevre, Under Secretary	Bourke, Governor	18 Aug.	No. 32	Ship Lloyds	191	do	do
Bourke, Governor	Hay, Under Secretary	18 Aug.	No. 33	Ship William Stoveld	192	Bourke, Governor	29 June.
Do	do	18 Aug.	No. 34	do	3	do	do
Stanley, Right Hon. E. G.	Bourke, Governor	19 Aug.	No. 31	Ship Lloyds	192	do	do
Lefevre, Under Secretary	do	19 Aug.	No. 32	Ship Numa	193	do	do
Bourke, Governor	Hay, Under Secretary	19 Aug.	No. 33	Ship William Stoveld	193	do	do
Stanley, Right Hon. E. G.	Bourke, Governor	20 Aug.	Circular	Ship Lloyds	194	Lefevre, Under Secretary.	11 Feb.
Do	do	20 Aug.	No. 32	do	1	do	do
Do	do	20 Aug.	No. 33	do	195	do	do
Hay, Under Secretary	Stanley, Right Hon. E. G.	20 Aug.	No. 64	Ship William Stoveld	195	Stanley, Right Hon. E. G.	12 Feb.
Bourke, Governor	do	20 Aug.	No. 65	do	196	do	7 Feb.
Do	do	21 Aug.	No. 34	Ship Lloyds	197	Bourke, Governor	15 Jan.
Stanley, Right Hon. E. G.	Bourke, Governor	21 Aug.	No. 66	do	1	do	do
Do	Stanley, Right Hon. E. G.	21 Aug.	No. 67	Ship William Stoveld	200	do	do
Bourke, Governor	do	21 Aug.	No. 67	do	3	do	do
Stanley, Right Hon. E. G.	Bourke, Governor	22 Aug.	No. 68	Ship Fairlie	203	do	do
Bourke, Governor	Stanley, Right Hon. E. G.	22 Aug.	No. 68	Ship William Stoveld	204	Stanley, Right Hon. E. G.	15 Feb.
Lefevre, Under Secretary	Bourke, Governor	26 Aug.	No. 69	Ship Fairlie	206	do	do
Do	do	30 Aug.	No. 70	do	206	do	do
Do	do	1 Sept.	No. 36	do	1	do	do
Stanley, Right Hon. E. G.	do	2 Sept.	No. 37	do	207	do	do
Do	do	3 Sept.	No. 37	do	208	do	do
Do	do	4 Sept.	Private	do	210	do	do

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Hay, Under Secretary	Bourke, Governor	1833, 10 Nov.	Ship Numa.....	263	1834.
Do	do	11 Nov.	No. 53	do	264
Stanley Right Hon. E. G.	do	12 Nov.	No. 54	do	264	.....	.....
Do	do	13 Nov.	No. 55	do	265	.....	.....
Do	do	18 Nov.	No. 56	do	266	.....	.....
Bourke Governor	do	21 Nov.	No. 56	do	266	.....	.....
Stanley, Right Hon. E. G.	Stewart, Hon. J.	21 Nov.	No. 12	Ship Children	267	Bourke, Governor.....	25 Sept.
Hay, Under Secretary	Bourke, Governor	22 Nov.	No. 57	Ship Numa.....	268	.....	.....
Stanley, Right Hon. E. G.	do	23 Nov.	.....	do	1	.....	.....
Bourke, Governor	do	25 Nov.	Circular	Ship Hive	269	Bourke, Governor.....	10 Sept. 1835.
Do	Stanley, Right Hon. E. G.	26 Nov.	No. 89	Ship Children	269	Aberdeen, Earl of.....	25 Sept. 1834.
Do	do	27 Nov.	No. 90	do	272	Stanley, Right Hon. E. G.	16 May.
Do	do	28 Nov.	No. 91	do	274	do	17 May.
Do	do	29 Nov.	No. 92	do	276	Rice, Right Hon. T. Spring	22 Oct.
Do	do	30 Nov.	No. 93	do	276	do	1 Aug.
Do	do	2 Dec.	No. 94	do	278	Aberdeen, Earl of.....	20 Dec.
Hay, Under Secretary	Bourke, Governor	3 Dec.	No. 95	Ship Numa.....	278	.....	.....
Bourke, Governor	Stanley, Right Hon. E. G.	3 Dec.	No. 96	Ship Children	279	.....	.....
Do	do	4 Dec.	No. 96	do	3	.....	.....
Do	do	5 Dec.	No. 97	do	280	Stanley, Right Hon. E. G.	18 May.
Do	do	5 Dec.	No. 98	do	282	Rice, Right Hon. T. Spring	15 Nov.
Do	do	5 Dec.	No. 99	do	294	do	24 June.
Do	do	5 Dec.	No. 100	do	296	do	16 Nov.
Do	do	6 Dec.	No. 101	do	297	Stanley, Right Hon. E. G.	23 May.
Do	do	6 Dec.	No. 102	do	3	.....	.....
Do	do	6 Dec.	No. 103	do	3	.....	.....
Do	do	7 Dec.	No. 104	do	301	Rice, Right Hon. T. Spring	15 Nov.
Do	do	7 Dec.	Separate	Ship Royal Admiral.....	302	.....	.....
Hay, Under Secretary	Bourke, Governor	25 Dec.	Private	Ship Hive	307	Bourke, Governor.....	19 July.
Do	do	27 Dec.	.....	do	308	.....	.....
Do	do	28 Dec.	.....	do	308	.....	.....
Do	do	29 Dec.	.....	do	308	.....	.....
Do	do	1834.	.....	do	308	.....	.....
Stanley, Right Hon. E. G.	Bourke, Governor	1 Jan.	Circular	do	311	Bourke, Governor	1 Sept.
Hay, Under Secretary	do	9 Jan.	.....	do	311	.....	.....
Stanley, Right Hon. E. G.	do	13 Jan.	No. 58	do	309	.....	.....
Bourke, Governor	Stanley, Right Hon. E. G.	15 Jan.	No. 1	Ship Royal Admiral	313	Aberdeen, Earl of	1835. 4 March.
Do	do	20 Jan.	No. 2	do	341	Rice, Right Hon. T. Spring	11 July.

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		1834.	No. 3	Ship Royal Admiral	342	1834.
Bourke, Governor	Stanley, Right Hon. E. G.	20 Jan.	No. 4	do	342
Do	Stewart, Hon. J.	20 Jan.	No. 4	do	343	Rice, Right Hon. T. Spring	1 Dec.
Do	Stanley, Right Hon. E. G.	21 Jan.	No. 5	do	346	Aberdeen, Earl of	20 Aug.
Do	do	24 Jan.	No. 6	do	310	.....	.....
Do	do	24 Jan.	No. 7	do	347	Rice, Right Hon. T. Spring	15 Nov.
Do	do	24 Jan.	No. 8	do	358	do	26 Oct.
Do	do	24 Jan.	No. 9	do	359	do	15 Nov.
Do	Hay, Under Secretary	24 Jan.	No. 59	do	365	.....	.....
Stanley, Right Hon. E. G.	Bourke, Governor	7 Feb.	No. 60	Ship Susan	367	.....	.....
Do	do	8 Feb.	No. 61	do	368	.....	.....
Lefevre, Under Secretary	do	9 Feb.	No. 62	do	300	.....	.....
Do	do	11 Feb.	No. 63	do	368	.....	.....
Stanley, Right Hon. E. G.	do	12 Feb.	No. 64	do	368	.....	.....
Do	do	13 Feb.	No. 65	do	369	.....	.....
Do	do	14 Feb.	No. 66	do	370	.....	.....
Bourke, Governor	Stanley, Right Hon. E. G.	14 Feb.	No. 10	Ship Ann.	369	.....	.....
Stanley, Right Hon. E. G.	Bourke, Governor	15 Feb.	No. 11	Ship Susan	371	.....	.....
Bourke, Governor	Stanley, Right Hon. E. G.	15 Feb.	No. 11	Ship Ann.	371	.....	.....
Bourke, Right Hon. E. G.	Bourke, Governor	15 Feb.	No. 12	Ship Susan	371	.....	.....
Bourke, Governor	Stanley, Right Hon. E. G.	16 Feb.	No. 12	Ship Ann.	309	Rice, Right Hon. T. Spring	2 Aug.
Stanley, Right Hon. E. G.	Bourke, Governor	16 Feb.	No. 13	Ship Susan	371	.....	.....
Bourke, Governor	Stanley, Right Hon. E. G.	17 Feb.	No. 14	Ship Ann.	373	.....	.....
Lefevre, Under Secretary	Bourke, Governor	17 Feb.	No. 14	Ship Susan	373	Rice, Right Hon. T. Spring	7 Sept.
Bourke, Governor	Stanley, Right Hon. E. G.	18 Feb.	No. 15	Ship Ann.	309	.....	.....
Bourke, Governor	Bourke, Governor	18 Feb.	No. 15	Ship Susan	374	Rice, Right Hon. T. Spring	8 Sept.
Lefevre, Under Secretary	Stanley, Right Hon. E. G.	19 Feb.	No. 16	Ship Ann.	309	.....	.....
Bourke, Governor	Stewart, Hon. J.	21 Feb.	No. 6	do	375	Rice, Right Hon. T. Spring	15 Nov.
Do	Stanley, Right Hon. E. G.	24 Feb.	No. 17	do	375	Aberdeen, Earl of	20 Dec.
Do	do	25 Feb.	No. 18	do	379	.....	.....
Do	Bourke, Governor	26 Feb.	No. 19	Ship Susan	379	.....	.....
Stanley, Right Hon. E. G.	Stanley, Right Hon. E. G.	28 Feb.	No. 18	Ship Ann.	309	Rice, Right Hon. T. Spring	4 Aug.
Bourke, Governor	do	1 Mar.	No. 20	do	380	do	11 Sept.
Do	do	1 Mar.	No. 20	do	381	do	11 Sept.
Do	Bourke, Governor	3 Mar.	No. 68	Ship Susan	381	.....	.....
Stanley, Right Hon. E. G.	Stanley, Right Hon. E. G.	3 Mar.	No. 21	Ship Ann.	310	.....	.....
Bourke, Governor	do	3 Mar.	No. 22	do	382	.....	.....
Do	do	3 Mar.	No. 23	do	383	.....	.....
Do	do	3 Mar.	Private	do	383	.....	.....
Stanley, Right Hon. E. G.	Bourke, Governor	6 Mar.	Ship Susan	389	Rice, Right Hon. T. Spring	12 July.
Lefevre, Under Secretary	do	7 Mar.	do	309	Bourke, Governor	17 July.

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Bourke, Governor	Stanley, Right Hon. E. G.	1834.	No. 47	Ship Persian	310	1834.
Lefevre, Under Secretary	Bourke, Governor	7 May	No. 74	Ship Roslyn Castle	309
Stanley, Right Hon. E. G.	do	11 May	No. 75	do	429	.....	.....
Do	do	12 May	No. 76	do	430	.....	.....
Do	do	13 May	No. 77	do	430	Bourke, Governor	1 Dec.
Do	do	14 May	No. 77	do	431	.....	.....
Do	do	15 May	No. 78	do	431	.....	.....
Do	do	15 May	Circular	do	482	Bourke, Governor	2 Dec.
Bourke, Governor	Stanley, Right Hon. E. G.	16 May	No. 48	Ship Persian	310	.....	.....
Stanley, Right Hon. E. G.	Bourke, Governor	16 May	No. 49	Ship Roslyn Castle	438	.....	.....
Bourke, Governor	Stanley, Right Hon. E. G.	16 May	No. 79	Ship Persian	439	.....	.....
Stanley, Right Hon. E. G.	Bourke, Governor	17 May	No. 80	Ship Roslyn Castle	442	Aberdeen, Earl of	23 Dec.
Bourke, Governor	Stanley, Right Hon. E. G.	17 May	No. 80	Ship Persian	310	.....	.....
Stanley, Right Hon. E. G.	Bourke, Governor	18 May	No. 81	Ship Roslyn Castle	442	.....	.....
Bourke, Governor	Stanley, Right Hon. E. G.	18 May	No. 81	Ship Persian	310	.....	.....
Do	do	18 May	No. 51	do	442	.....	.....
Do	do	18 May	No. 52	do	310	.....	.....
Lefevre, Under Secretary	Bourke, Governor	19 May	No. 53	Ship Roslyn Castle	443	.....	.....
Bourke, Governor	Stanley, Right Hon. E. G.	19 May	No. 53	Ship Persian	310	.....	.....
Stanley, Right Hon. E. G.	Bourke, Governor	20 May	No. 82	Ship Roslyn Castle	309	.....	.....
Do	do	23 May	No. 83	do	443	Bourke, Governor	18 Sept. 1835.
Do	do	25 May	No. 84	Ship Henry Tanner	445	Bourke, Sir Richard	26 June. 1834.
Lefevre, Under Secretary	do	26 May	Private	do	448	Bourke, Governor	6 Dec.
Do	do	27 May	.....	do	309	.....	.....
Stanley, Right Hon. E. G.	do	28 May	No. 85	do	449	.....	.....
Do	do	29 May	No. 86	do	449	Bourke, Sir Richard	1835.
Lefevre, Under Secretary	do	1 June	Private	do	451	Bourke, Governor	1834.
Rice, Right Hon. T. Spring	do	5 June	Circular	do	453	.....	.....
Do	do	6 June	No. 1	do	453	.....	.....
Bourke, Governor	Stanley, Right Hon. E. G.	19 June	Separate	Ship Cognac Packet	453	.....	.....
Rice, Right Hon. T. Spring	Bourke, Governor	21 June	No. 2	Ship Henry Tanner	309	Aberdeen, Earl of	26 Sept.
Do	do	22 June	No. 3	do	309	.....	.....
Do	do	23 June	No. 4	do	309	.....	.....
Do	do	24 June	No. 5	do	454	.....	.....
Do	do	25 June	No. 6	do	454	.....	.....
Do	do	29 June	No. 7	Ship George Hibbert	456	Bourke, Governor	3 Dec.
Bourke, Governor	Stanley, Right Hon. E. G.	29 June	No. 54	Ship Cognac Packet	456

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Bourke, Governor	Stanley, Right Hon. E. G.	1834.	No. 55	Ship Cognac Packet	310	Hay, Under Secretary	1834.
Do	Hay, Under Secretary	29 June	No. 55	do	457	do	15 Dec.
Rice, Right Hon. T. Spring	Bourke, Governor	30 June	No. 8	Ship George Hibbert	458	do	1835.
Bourke, Governor	Stanley, Right Hon. E. G.	30 June	No. 56	Ship James Harris	459	Glenelg, Lord	26 June.
Do	do	2 July	No. 57	do	460	Aberdeen, Earl of	1834.
Rice, Right Hon. T. Spring	Bourke, Governor	3 July	No. 9	Ship George Hibbert	461	do	24 Dec.
Bourke, Governor	Stanley, Right Hon. E. G.	3 July	No. 58	Ship James Harris	466	Aberdeen, Earl of	25 Dec.
Rice, Right Hon. T. Spring	Bourke, Governor	4 July	Circular	Ship James Hibbert	467	do	25 Dec.
Bourke, Governor	Stanley, Right Hon. E. G.	4 July	No. 59	Ship James Harris	468	Aberdeen, Earl of	25 Dec.
Hay, Under Secretary	Bourke, Governor	6 July	.....	Ship Henry Tanner	471	do	.....
Do	do	6 July	.....	do	471	do	.....
Bourke, Governor	Stanley, Right Hon. E. G.	6 July	No. 60	Ship James Harris	310	do	.....
Lefevre, Under Secretary	Bourke, Governor	7 July	.....	Ship George Hibbert	472	do	.....
Rice, Right Hon. T. Spring	do	8 July	No. 10	do	472	Bourke, Governor	7 Dec.
Do	do	8 July	.....	do	472	do	1835.
Bourke, Governor	Stanley, Right Hon. E. G.	8 July	No. 61	Ship James Harris	473	Aberdeen, Earl of	13 Feb.
Rice, Right Hon. T. Spring	Bourke, Governor	9 July	No. 11	Ship George Hibbert	476	do	.....
Bourke, Governor	Stanley, Right Hon. E. G.	9 July	No. 62	Ship James Harris	310	do	.....
Do	do	10 July	No. 63	do	477	do	.....
Rice, Right Hon. T. Spring	Bourke, Governor	11 July	No. 12	Ship George Hibbert	478	do	.....
Bourke, Governor	Stanley, Right Hon. E. G.	11 July	No. 64	Ship James Harris	310	do	.....
Do	do	12 July	No. 65	do	479	Aberdeen, Earl of	1834.
Do	do	13 July	No. 66	do	480	do	27 Sept.
Do	do	14 July	No. 67	do	481	do	27 Dec.
Do	do	22 July	No. 68	Ship Harmony	483	do	.....
Do	do	23 July	No. 69	do	310	do	.....
Do	do	24 July	No. 70	Ship Eldon	484	do	.....
Rice, Right Hon. T. Spring	Bourke, Governor	25 July	No. 13	Ship Hoogley	486	do	.....
Bourke, Governor	Stanley, Right Hon. E. G.	29 July	No. 71	Ship Eldon	310	Aberdeen, Earl of	29 Dec.
Do	do	29 July	No. 72	do	488	do	.....
Do	do	29 July	No. 73	do	310	do	.....
Do	do	29 July	No. 74	do	310	do	.....
Rice, Right Hon. T. Spring	Bourke, Governor	1 Aug.	No. 14	Ship Henry Poreher	489	do	.....
Do	do	1 Aug.	Circular	do	491	do	.....
Do	do	1 Aug.	No. 15	do	492	do
Do	do	2 Aug.	No. 16	do	493	do
Do	do	3 Aug.	No. 17	do	309	do

SYNOPSIS OF DESPATCHES.

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Rice, Right Hon. T. Spring...	Bourke, Governor	1834. 4 Aug.	No. 18	Ship Henry Porcher	493
Do	do	5 Aug.	No. 19	do	309	.....	.....
Do	do	11 Aug.	No. 20	do	309	.....	.....
Hay, Under Secretary	do	18 Aug.	No. 21	do	309	.....	.....
Rice, Right Hon. T. Spring...	do	20 Aug.	.....	do	404	.....	.....
Hay, Under Secretary	do	20 Aug.	.....	do	309	.....	.....
Do	do	26 Aug.	.....	do	309	.....	.....
Do	do	27 Aug.	.....	do	309	.....	.....
Rice, Right Hon. T. Spring...	do	28 Aug.	No. 22	do	309	.....	.....
Do	do	29 Aug.	Circular	do	494	.....	.....
Bourke, Governor	Stanley, Right Hon. E. G.	1 Sept.	No. 75	Ship Harmony	495	Glenevel, Lord	1835. 10 July.
Do	Hay, Under Secretary	1 Sept.	.....	do	497	.....	.....
Do	Stanley, Right Hon. E. G.	2 Sept.	No. 76	do	497	.....	.....
Rice, Right Hon. T. Spring	Bourke, Governor	3 Sept.	No. 23	Ship Bengal Merchant.	498	.....	.....
Bourke, Governor	Stanley, Right Hon. E. G.	3 Sept.	No. 77	Ship Harmony	501	Glenevel, Lord	1 Aug. 1836.
Grey, Sir George	Bourke, Governor	4 Sept.	.....	Ship Bengal Merchant.	502	Bourke, Sir Richard	10 Sept.
Bourke, Governor	Stanley, Right Hon. E. G.	4 Sept.	No. 78	Ship Harmony	502	.....	.....
Grey, Sir George	Bourke, Governor	5 Sept.	.....	Ship Bengal Merchant.	503	Bourke, Sir Richard	1835. 23 June.
Bourke, Governor	Stanley, Right Hon. E. G.	5 Sept.	No. 79	Ship Harmony	310	.....	.....
Grey, Sir George	Bourke, Governor	6 Sept.	.....	Ship Bengal Merchant.	503	Bourke, Sir Richard	25 March.
Bourke, Governor	Stanley, Right Hon. E. G.	6 Sept.	No. 80	Ship Harmony	310	.....	.....
Rice, Right Hon. T. Spring	Bourke, Governor	7 Sept.	No. 81	Ship Bengal Merchant.	504	Grant, Right Hon. G.	20 April.
Bourke, Governor	Stanley, Right Hon. E. G.	7 Sept.	No. 24	Ship Harmony	505	.....	.....
Rice, Right Hon. T. Spring	Bourke, Governor	8 Sept.	No. 25	Ship Bengal Merchant.	507	.....	.....
Bourke, Governor	Stanley, Right Hon. E. G.	8 Sept.	No. 82	Ship Harmony	310	.....	.....
Rice, Right Hon. T. Spring	Bourke, Governor	9 Sept.	No. 26	Ship Bengal Merchant.	507	.....	.....
Bourke, Governor	Stanley, Right Hon. E. G.	9 Sept.	No. 83	Ship Harmony	507	.....	.....
Rice, Right Hon. T. Spring	Bourke, Governor	10 Sept.	No. 27	Ship Duchess of North- umberland.	508	Bourke, Sir Richard	8 May.
Bourke, Governor	Stanley, Right Hon. E. G.	10 Sept.	No. 84	Ship Harmony	310	.....	.....
Rice, Right Hon. T. Spring	Bourke, Governor	11 Sept.	No. 28	Ship Bengal Merchant.	512	.....	.....
Bourke, Governor	Stanley, Right Hon. E. G.	11 Sept.	No. 85	Ship Harmony	310	.....	.....
Rice, Right Hon. T. Spring	Bourke, Governor	12 Sept.	No. 29	Ship Bengal Merchant.	513	.....	.....
Bourke, Governor	Stanley, Right Hon. E. G.	12 Sept.	No. 86	Ship Harmony	514	Glenevel, Lord	3 July.
Hay, Under Secretary	Bourke, Governor	13 Sept.	No. 80	Ship Duchess of North- umberland.	309	.....	.....
Bourke, Governor	Stanley, Right Hon. E. G.	13 Sept.	No. 87	Ship Harmony	514	Aberdeen, Earl of	15 April.

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Bourke, Governor	Stanley, Right Hon. E. G.	1834.	No. 88	Ship Harmony	519	Glenelg, Lord	1835.
Do	do	15 Sept.	No. 89	do	520	do	3 July.
Do	do	16 Sept.	No. 90	do	310	do	5 Sept.
Do	Hay, Under Secretary	17 Sept.	No. 91	Ship Harmony	537	Grant, Right Hon. C.	24 April.
Do	Stanley, Right Hon. E. G.	18 Sept.	No. 92	do	538	Glenelg, Lord	20 June.
Do	do	19 Sept.	No. 93	do	531	Grant, Right Hon. C.	27 April.
Do	Hay, Under Secretary	19 Sept.	Separate	do	539	do	31 Aug.
Do	Stanley, Right Hon. E. G.	20 Sept.	No. 94	do	542	Glenelg, Lord	.....
Do	do	21 Sept.	No. 95	Ship Duchess of Northumberland.	369	.....	.....
Hay, Under Secretary	Bourke, Governor	21 Sept.	No. 96	Ship Harmony	543	.....	.....
Bourke, Governor	Stanley, Right Hon. E. G.	22 Sept.	No. 97	Ship Duchess of Northumberland.	369	.....	.....
Hay, Under Secretary	Bourke, Governor	22 Sept.	No. 98	Ship Harmony	544	.....	.....
Bourke, Governor	Stanley, Right Hon. E. G.	23 Sept.	No. 99	do	544	Glenelg, Lord	28 Oct.
Do	do	24 Sept.	No. 100	do	310	do	.....
Do	do	25 Sept.	No. 101	do	310	do	.....
Do	do	26 Sept.	No. 102	do	310	do	.....
Do	do	27 Sept.	No. 103	do	310	do	.....
Do	do	28 Sept.	No. 104	do	310	do	.....
Do	do	29 Sept.	No. 105	do	310	do	.....
Do	do	30 Sept.	No. 106	do	310	do	.....
Do	do	1 Oct.	No. 107	do	310	do	.....
Do	do	1 Oct.	No. 108	do	557	do	.....
Do	do	1 Oct.	No. 109	do	558	do	.....
Do	do	1 Oct.	No. 110	do	559	Glenelg, Lord	5 Sept.
Do	do	1 Oct.	No. 111	do	539	do	.....
Do	do	20 Oct.	No. 112	do	310	do	.....
Do	do	21 Oct.	No. 113	do	310	do	.....
Rice, Right Hon. T. Spring	Bourke, Governor	22 Oct.	No. 31	Ship Lady Nugent	561	do	.....
Bourke, Governor	Stanley, Right Hon. E. G.	22 Oct.	No. 113	Ship Redman	310	do	.....
Do	do	22 Oct.	Separate	do	546	Bourke, Sir Richard	8 May.
Rice, Right Hon. T. Spring	do	23 Sept.	Circular	do	546	do	6 Aug.
Hay, Under Secretary	do	1 Oct.	No. 102	Ship Lady Nugent	547	Aberdeen, Earl of	16 April.
Rice, Right Hon. T. Spring	do	5 Oct.	No. 103	Ship Caroline	548	do	17 April.
Bourke, Governor	Stanley, Right Hon. E. G.	10 Oct.	No. 104	do	549	do	.....
Do	do	15 Oct.	No. 105	Ship Redman	550	do	.....
Do	do	16 Oct.	No. 106	Ship Caroline	556	do	.....
Do	do	17 Oct.	No. 107	do	310	do	.....
Do	do	18 Oct.	No. 108	do	310	do	.....
Do	do	18 Oct.	No. 109	do	557	do	.....
Do	do	19 Oct.	No. 110	do	558	do	.....
Do	do	19 Oct.	No. 111	Ship Redman	559	Glenelg, Lord	5 Sept.
Do	Lefevre, Under Secretary	19 Oct.	No. 112	do	539	do	.....
Do	Stanley, Right Hon. E. G.	20 Oct.	No. 113	do	310	do	.....
Do	do	21 Oct.	No. 112	do	310	do	.....
Do	do	22 Oct.	No. 31	Ship Lady Nugent	561	do	.....
Rice, Right Hon. T. Spring	Bourke, Governor	22 Oct.	No. 113	Ship Redman	310	do
Bourke, Governor	Stanley, Right Hon. E. G.	22 Oct.	No. 113	do	310	do

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Bourke, Governor	Stanley, Right Hon. E. G.	22 Oct.	No. 114	Ship Redman.....	311	9 Sept.
Do	do	22 Oct.	No. 115	do	561	
Rice, Right Hon. T. Spring	Bourke, Governor	24 Oct.	No. 32	Ship Lady Nugent	562	.....	27 April.
Do	do	26 Oct.	No. 33	do	563	.....	9 Oct.
Do	do	28 Oct.	No. 30	do	563	.....	22 Aug.
Do	do	29 Oct.	No. 34	do	563	.....
Bourke, Governor	Rice, Right Hon. T. Spring.	30 Oct.	No. 116	Ship Reynolds	564	.....
Hay, Under Secretary	Bourke, Governor	31 Oct.	No. 117	Ship Lady Nugent	309	.....
Bourke, Governor	Rice, Right Hon. T. Spring.	31 Oct.	No. 35	Ship Reynolds	311	.....
Bourke, Governor	Bourke, Governor	1 Nov.	No. 36	Ship Lady Nugent	565	.....
Do	do	4 Nov.	Circular	do	566	.....
Do	do	6 Nov.	No. 37	do	568	.....	6 Oct.
Do	do	7 Nov.	No. 37	do	571	.....
Do	do	8 Nov.	No. 38	do	575	.....
Do	do	15 Nov.	No. 39	do	577	.....
Do	do	15 Nov.	No. 40	do	580	.....
Hay, Under Secretary	do	15 Nov.	.....	do	584	.....
Rice, Right Hon. T. Spring	do	16 Nov.	No. 41	do	585	.....
Do	do	16 Nov.	No. 42	do	585	.....
Do	do	16 Nov.	No. 43	do	585	.....
Do	do	16 Nov.	No. 44	do	586	.....
Do	do	16 Nov.	No. 44	do	587	.....
Do	do	16 Nov.	No. 45	do	587	.....
Do	do	16 Nov.	No. 46	do	309	.....
Hay, Under Secretary	do	17 Nov.	No. 47	do	587	.....
Rice, Right Hon. T. Spring	do	20 Nov.	.....	do	588	.....
Hay, Under Secretary	do	25 Nov.	.....	do	588	.....
Do	do	28 Nov.	.....	do	591	.....
Do	do	1 Dec.	Private.....	do	593	.....
Do	do	1 Dec.	.....	Ship Marquis of Huntley	309	.....
Bourke, Governor	Rice, Right Hon. T. Spring.	1 Dec.	No. 118	do	594	.....	8 May.
Do	do	2 Dec.	No. 119	Ship British Sovereign..	594	.....
Do	do	3 Dec.	No. 120	do	594	.....
Do	do	4 Dec.	No. 121	do	311	.....
Do	do	5 Dec.	No. 1	do	595	.....
Wellington, Duke of	Bourke, Governor	5 Dec.	No. 122	Ship Marquis of Huntley..	311	.....
Bourke, Governor	Rice, Right Hon. T. Spring.	5 Dec.	No. 123	Ship British Sovereign..	311	.....	28 Oct.
Do	do	6 Dec.	Private	do	596	.....
Do	Lefevre, Under Secretary	6 Dec.	No. 124	do	597	
Do	Rice, Right Hon. T. Spring.	8 Dec.	No. 125	do	311	
Do	do	9 Dec.	No. 125	do	598	23 June.

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Lefevre, Under Secretary	Bourke, Governor	13 Dec.	No. 126	do	309
Bourke, Governor	Rice, Right Hon. T. Spring.	14 Dec.	No. 126	Ship Marquis of Huntley	600	Glenelg, Lord	11 July.
Hay, Under Secretary	Bourke, Governor	15 Dec.	No. 127	Ship British Sovereign...	606	.....	.....
Bourke, Governor	Rice, Right Hon. T. Spring.	16 Dec.	No. 127	do	311	Glenelg, Lord	4 July.
Do	Lefevre, Under Secretary	16 Dec.	Circular	do	311	.....	.....
Aberdeen, Earl of	Bourke, Governor	20 Dec.	No. 1	Ship Westmoreland	607	.....	.....
Do	do	20 Dec.	No. 2	Ship Marquis of Huntley	607	Bourke, Sir Richard	18 Aug.
Do	do	21 Dec.	No. 3	do	608	.....	.....
Do	do	21 Dec.	No. 3	do	608	.....	.....
Do	do	21 Dec.	Separate	do	609	.....	.....
Do	do	22 Dec.	No. 4	do	610	.....	.....
Do	do	23 Dec.	No. 5	do	611	Bourke, Sir Richard	1836.
Do	do	23 Dec.	No. 6	do	309	.....	.....
Do	do	23 Dec.	No. 7	do	612	.....	.....
Do	do	23 Dec.	No. 7	do	612	.....	.....
Do	do	24 Dec.	No. 8	do	613	.....	.....
Do	do	24 Dec.	No. 9	do	613	.....	.....
Do	do	24 Dec.	No. 10	do	615	.....	.....
Do	do	25 Dec.	No. 11	do	615	.....	.....
Do	do	25 Dec.	No. 12	do	615	.....	.....
Do	do	26 Dec.	No. 13	do	309	.....	.....
Do	do	26 Dec.	Separate	do	616	.....	.....
Do	do	27 Dec.	No. 14	do	617	.....	.....
Do	do	27 Dec.	No. 15	do	617	.....	.....
Bourke, Governor	Rice, Right Hon. T. Spring.	27 Dec.	No. 128	Ship William Metcalf	311	.....	.....
Aberdeen, Earl of	Bourke, Governor	28 Dec.	No. 16	Ship Marquis of Huntley	309	.....	.....
Bourke, Governor	Rice, Right Hon. T. Spring.	28 Dec.	No. 129	Ship William Metcalf	618	Glenelg, Lord	1835.
Aberdeen, Earl of	Bourke, Governor	29 Dec.	No. 17	Ship Marquis of Huntley	622	.....	14 Oct.
Do	do	30 Dec.	No. 18	do	622	.....	.....
Do	do	31 Dec.	No. 19	Ship Westmoreland	309	.....	.....
Do	do	31 Dec.	Circular	do	623	.....	.....
Bourke, Governor	Rice, Right Hon. T. Spring.	1835.	No. 1	Ship William Metcalf	626	.....	.....
Do	do	5 Jan.	No. 2	do	627	.....	.....
Aberdeen, Earl of	Bourke, Governor	8 Jan.	Circular	Ship Westmoreland	627	.....	.....
Do	do	10 Jan.	Circular	do	628	.....	.....
Bourke, Governor	Rice, Right Hon. T. Spring.	12 Jan.	No. 3	Ship William Metcalf	628	Glenelg, Lord	29 July.
Do	do	13 Jan.	No. 4	do	629	do	3 Aug.

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Bourke, Governor	Rice, Right Hon. T. Spring.	1835. 13 Jan.	No. 5	Ship William Metcalf	632	Glenelg, Lord	1835. 4 Aug.
Do	do	23 Jan.	No. 6	do	638	.....	.....
Aberdeen, Earl of	Hay, Under Secretary	26 Jan.	No. 20	Ship Marquis of Huntley	640	.....	.....
Bourke, Sir Richard	Bourke, Sir Richard	27 Jan.	No. 7	Ship William Metcalf	623	.....	.....
Hay, Under Secretary	Rice, Right Hon. T. Spring.	27 Jan.	No. 7	Ship Marquis of Huntley	625	.....	.....
Do	do	28 Jan.	Private	do	640	.....	.....
Bourke, Sir Richard	Rice, Right Hon. T. Spring.	28 Jan.	No. 8	Ship William Metcalf	625	.....	.....
Aberdeen, Earl of	Bourke, Sir Richard	29 Jan.	No. 21	Ship Marquis of Huntley	641	.....	.....
Bourke, Sir Richard	Rice, Right Hon. T. Spring.	29 Jan.	No. 9	Ship William Metcalf	625	.....	.....
Do	do	30 Jan.	No. 10	do	642	Glenelg, Lord	4 July.
Hay, Under Secretary	Bourke, Sir Richard	30 Jan.	No. 22	Ship Marquis of Huntley	624	.....	.....
Aberdeen, Earl of	do	31 Jan.	No. 11	do	644	.....	.....
Bourke, Sir Richard	Rice, Right Hon. T. Spring.	31 Jan.	No. 11	Ship William Metcalf	625	.....	.....
Aberdeen, Earl of	Bourke, Sir Richard	1 Feb.	Circular	Ship Westmoreland	644	.....	.....
Hay, Under Secretary	do	1 Feb.	No. 12	do	624	.....	.....
Bourke, Sir Richard	Rice, Right Hon. T. Spring.	1 Feb.	No. 12	Ship William Metcalf	645	.....	.....
Do	do	2 Feb.	No. 13	do	647	.....	.....
Do	do	3 Feb.	No. 14	do	647	Glenelg, Lord	16 Oct.
Do	do	4 Feb.	No. 15	do	625	.....	.....
Do	do	4 Feb.	No. 15	do	625	.....	.....
Do	do	6 Feb.	No. 16	do	625	.....	.....
Do	do	6 Feb.	No. 17	Ship John Barry	648	Glenelg, Lord	31 July.
Do	do	7 Feb.	No. 18	do	625	.....	.....
Do	do	8 Feb.	No. 19	do	650	Glenelg, Lord	5 Aug.
Do	do	8 Feb.	No. 20	do	625	.....	.....
Do	do	8 Feb.	No. 21	do	650	Glenelg, Lord	6 Aug. 7 Aug.
Do	do	8 Feb.	No. 22	do	652	do	30 July.
Do	do	9 Feb.	No. 23	Ship Governor Harcourt	653	.....	.....
Do	do	10 Feb.	No. 24	do	625	.....	.....
Do	do	11 Feb.	No. 25	do	625	Glenelg, Lord	12 July.
Do	do	12 Feb.	No. 26	do	656	.....	.....
Aberdeen, Earl of	Bourke, Sir Richard	13 Feb.	No. 23	Ship Marquis of Huntley	636	.....	.....
Bourke, Sir Richard	Rice, Right Hon. T. Spring.	13 Feb.	No. 27	Ship Governor Harcourt	638	.....	.....
Aberdeen, Earl of	Bourke, Sir Richard	14 Feb.	No. 24	Ship Marquis of Huntley	661	.....	.....
Bourke, Sir Richard	Rice, Right Hon. T. Spring.	15 Feb.	No. 28	Ship Roslyn Castle	662	.....	.....
Do	do	16 Feb.	No. 29	do	664	Glenelg, Lord	30 Sept.
Aberdeen, Earl of	Bourke, Sir Richard	17 Feb.	No. 25	Ship Westmoreland	667	.....	.....
Bourke, Sir Richard	Rice, Right Hon. T. Spring.	18 Feb.	No. 30	Ship Roslyn Castle	678	Glenelg, Lord	12 Aug. 28 Sept.
Do	do	18 Feb.	No. 31	do	681	do	3 Nov.
Do	do	19 Feb.	No. 32	do	682	do

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Aberdeen, Earl of	Bourke, Sir Richard	1835, 20 Feb.	No. 26	Ship Westmoreland	682	Glenelg, Lord	1835.
Bourke, Sir Richard	Rice, Right Hon. T. Spring.	20 Feb.	No. 33	Ship Roslyn Castle	683		13 Nov.
Do	do	21 Feb.	No. 34	do	625		
Aberdeen, Earl of	Bourke, Sir Richard	25 Feb.	Circular	Ship Marquis of Huntley	684		
Do	do	25 Feb.	No. 27	Ship Westmoreland	685	Bourke, Sir Richard	24 July.
Do	do	4 Mar.	No. 28	Ship Marquis of Huntley	690		
Do	do	5 Mar.	Confidential	do	691		
Do	do	8 Mar.	No. 29	do	623		
Bourke, Sir Richard	Rice, Right Hon. T. Spring.	10 Mar.	No. 30	do	696	Bourke, Sir Richard	12 Aug.
Do	do	10 Mar.	No. 35	Ship Red Rover	697	Glenelg, Lord	10 Oct.
Do	do	10 Mar.	No. 36	do	625		
Aberdeen, Earl of	Bourke, Sir Richard	12 Mar.	No. 31	Ship Marquis of Huntley	697	Bourke, Sir Richard	8 Oct.
Hay, Under Secretary	do	14 Mar.	No. 37	do	698	do	20 Nov.
Bourke, Sir Richard	Rice, Right Hon. T. Spring.	20 Mar.	No. 38	Ship Red Rover	625		
Do	do	22 Mar.	No. 38	do	700	Glenelg, Lord	11 Oct.
Aberdeen, Earl of	Bourke, Sir Richard	23 Mar.	No. 32	Ship Marquis of Huntley	701	Bourke, Sir Richard	1836. 11 Jan.
Bourke, Sir Richard	Rice, Right Hon. T. Spring.	23 Mar.	No. 39	Ship Red Rover	702	Glenelg, Lord	1835. 28 Aug.
Hay, Under Secretary	Bourke, Sir Richard	24 Mar.	No. 40	Ship Red Rover	702		
Bourke, Sir Richard	Rice, Right Hon. T. Spring.	24 Mar.	No. 40	Ship Red Rover	702	Glenelg, Lord	27 Oct.
Aberdeen, Earl of	Bourke, Sir Richard	25 Mar.	No. 33	Ship Cauton	753	Bourke, Sir Richard	1836. 3 Nov. 1835.
Bourke, Sir Richard	Grey, Sir George	25 Mar.	No. 34	Ship Red Rover	703		
Do	do	30 Mar.	No. 34	do	625		
Aberdeen, Earl of	Bourke, Sir Richard	31 Mar.	No. 35	Ship Cauton	753	Bourke, Sir Richard	26 Dec.
Do	do	1 April	No. 35	do	705		
Do	do	2 April	No. 36	do	709		
Hay, Under Secretary	do	14 April	No. 37	do	624		
Aberdeen, Earl of	do	15 April	No. 38	do	710		
Do	do	16 April	No. 38	do	711		
Do	do	17 April	No. 39	do	712		
Grant, Right Hon. C.	Circular	18 April	Circular	do	712		
Hay, Under Secretary	do	18 April	do	do	713		
Grant, Right Hon. C.	do	20 April	do	do	714		
Do	do	20 April	Circular	do	715		
Do	do	24 April	No. 1	do	715		
	do		No. 2	do	715		

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Bourke, Sir Richard	do	27 April	No. 41	Ship Venus	716		11 Nov.
Do	do	28 April	No. 42	do	625		
Hay, Under Secretary	Bourke, Sir Richard	30 April	No. 43	Ship Canton	717	Glenelg, Lord	12 Oct.
Bourke, Sir Richard	Secretary of State	1 May	Private	do	718		
Do	Hay, Under Secretary	1 May	No. 44	do	719	Glenelg, Lord	13 Oct.
Do	Secretary of State	2 May	Circular	Ship England	720		
Glenelg, Lord	Bourke, Sir Richard	4 May	No. 4	do	722		
Do	do	8 May		Ship Venus	625		
Bourke, Sir Richard	Hay, Under Secretary	8 May	No. 45	do	723	Glenelg, Lord	1 Dec.
Do	Secretary of State	9 May	No. 46	do	729		
Do	do	9 May	No. 47	do	730		
Do	do	12 May		Ship England	731	Bourke, Sir Richard	16 Oct.
Hay, Under Secretary	Bourke, Sir Richard	16 May	No. 5	Ship Mary Ann	623		
Glenelg, Lord	do	22 May	No. 6	do	623		
Do	do	22 May	No. 7	do	623		
Do	do	1 June	No. 48	Ship Thomas Harrison	732	Glenelg, Lord	19 Nov.
Bourke, Sir Richard	Secretary of State	2 June	No. 49	do	734	do	14 Nov.
Do	do	3 June	No. 50	do	739	do	15 Nov.
Do	do	4 June	No. 51	do	625		
Do	do	5 June	No. 52	do	625		
Do	do	6 June		Ship Mary Ann	624		
Hay, Under Secretary	Bourke, Sir Richard	20 June	No. 8	do	739		
Glenelg, Lord	do	21 June		do	740		
Hay, Under Secretary	Secretary of State	21 June	No. 53	Ship Albion	741	Glenelg, Lord	10 Dec.
Bourke, Sir Richard	Bourke, Sir Richard	22 June	No. 9	Ship Mary Ann	743		
Do	do	23 June	No. 54	Ship Albion	625		
Bourke, Sir Richard	Secretary of State	23 June	No. 10	Ship Mary Ann	743		
Glenelg, Lord	Bourke, Sir Richard	23 June	No. 55	Ship Albion	744	Glenelg, Lord	13 Dec.
Bourke, Sir Richard	Secretary of State	23 June		do	625		
Do	Hay, Under Secretary	23 June	No. 11	Ship Mary Ann	623		
Glenelg, Lord	Bourke, Sir Richard	24 June	No. 56	Ship Albion	625		
Bourke, Sir Richard	Secretary of State	24 June	No. 12	Ship Mary Ann	744		
Glenelg, Lord	Bourke, Sir Richard	25 June	No. 57	Ship Albion	746	Glenelg, Lord	9 Dec.
Bourke, Sir Richard	Secretary of State	25 June		do	625		
Do	Hay, Under Secretary	25 June		Ship Mary Ann	750		1836.
Glenelg, Lord	Bourke, Sir Richard	26 June	No. 13	do			1 Feb.
Bourke, Sir Richard	Secretary of State	26 June	No. 58	Ship Albion	750	Glenelg, Lord	

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transmission in, 574.



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