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HISTORICAL RECORDS

OF

AUSTRALIA.

SERIES I.

GOVERNORS' DESPATCHES TO AND
FROM ENGLAND.

VOLUME XVIII.

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INTRODUCTION.

GOVERNOR BOURKE.*

DURING the administration of Governor Bourke, the establishment of a representative legislature in the colony became a subject of practical politics. The movement for such reform may be ascribed to influence in three quarters—the influence of the governor, the influence of the British government, and the influence of popular agitation in the colony assisted by powerful interests in England.

Governor Bourke was a broadminded and far-sighted statesman, and recognised the advantage of granting to the people governed a share in their own government. The British government realised that the legislative council, appointed in 1829 and consisting of seven official and seven unofficial nominee members, with the governor as president, was experimental in character, and that some reform was necessary. The popular agitation, apart from the natural desire for self-government, arose as a protest against the appropriation of revenues, raised by taxation in the colony, to expenditure over which the colonists had no control. At the same time, the statute, 9 Geo. IV, c. lxxxiii, by which the administration of the colony was regulated, expired on the last day of the year 1836 or at the end of the next session of parliament, and the opportunity for reform was available.

After two years' experience of the conditions in the colony, Governor Bourke proposed that a legislative council should be established, consisting of about twenty-four members, one-third and the president to be nominated by the crown, and two-thirds to be elected by the colonists. In a despatch,† dated 25th December, 1833, Governor Bourke detailed his reasons for such proposed change. He stated that there were two parties in the colony, the emigrant and emancipist; that, in the council as then constituted, the selection of the seven unofficial members had been made almost

* During his administration, Governor Bourke was created a knight-commander of the most honourable order of the Bath on the 26th of January, 1835.

† See page 302 *et seq.*, volume XVII.

entirely from the emigrant party; that the inclinations of the official members were towards the same party; and that legislation for the whole community by means of a council composed of one party was impolitic, and was controlled only by the power of the governor to prevent the introduction of any bills but such as he approved. He adversely criticised the power of such a council over the appropriation of the revenues, and held the opinion that partiality might occur in the voting of money as in the case of the compensation voted for H. and W. Dumaresq.* He stated further that the council as constituted was mistrusted by the general public.

Governor Bourke, in addition to proposing a council of twenty-four members, advocated the admission of the public to the debates of the council in order that the projects and measures of the government should be freely canvassed. He, at the same time, objected to the provision in the statute, 9 Geo. IV, c. lxxxiii, which enacted that the governor should preside at all meetings of the council, because, in his character as president, he could 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." He proposed that both the nominee and elective members of the council should hold office for four years, when new nominations should be made and new members elected. He suggested that all persons should be eligible as members, who had arrived free or were born in the colony, and that all persons qualified to serve as jurors should have the right of election. The qualifications for a juror at that period were the possession of an income of £30 *per annum* from real estate, or of a personal estate of £300. In making these proposals in 1833, Governor Bourke expected that there would be a popular demand for a legislative assembly as the colony increased in population and wealth, and he considered that it was an important question of expediency whether it was not better "to effect a change in the gradual manner suggested, than to delay it until a much greater alteration in the Institutions of the Country will become inevitable."

* See page 220 *et seq.*, volume XVII.

Two years later, in December, 1835, Governor Bourke had modified his opinions owing to the rise of the colony in importance and wealth. He proposed* that a legislative assembly should be constituted consisting of thirty-six members, twelve to be nominated by the King and twenty-four elected by the people. To make this assembly effective, he proposed the following provisions:—All ministers of religion, minors, aliens, felons and persons convicted of any infamous offence to be ineligible as members; a commission to be appointed to divide the colony into electoral districts, and determine the number of representatives for each, subject to the rule that there must be twelve county members and twelve members for towns; voters to be qualified by the possession of a freehold of £100 stg. or of the yearly value of £10 in the counties, or of a freehold of the yearly value of £30 in Sydney or £10 in any other town, or as a tenant at £40 *per annum* in Sydney or £10 in any other town; ex-piirees and emancipists to be eligible as electors, but minors, aliens and persons under sentence of transportation to be ineligible; the number of elective members to be increased by twelve by any law passed by the assembly; the assembly to meet once in every twelve months and to continue for four years subject to prorogation or dissolution; the governor to have the power to appoint or remove the speaker; every elective member to swear that he had an estate of £300 *per annum* or property of the value of £3,000; the governor to assent to bills or to reserve them for the King's pleasure; such reserved bills not to be in force until the King's pleasure was signified; and the assembly to have full power of appropriation of the public revenues, but the salaries of the governor and judges to be permanently secured.

This comprehensive scheme was incorporated by F. Forbes, the chief justice, at the request of Governor Bourke, in the draft of a bill to be passed in place of the expiring New South Wales act, and had great influence on the subsequent drafting of the statute before submission to the English parliament.

In making his proposals for an elective legislature, and in conceiving and passing the general church act,† Governor Bourke demonstrated his qualities as a statesman and placed himself in the first rank of the men who made Australia.

Whilst he was evolving these proposals, Governor Bourke advocated minor reforms to modify the condition of the then existing council.

* See page 246 *et seq.*

† See pages xvi and xvii, volume XVII.

In the legislative council as constituted under the warrant* of 1829, the archdeacon was a member *ex officio*. When, in 1836, the archdeaconry was revoked and a bishopric erected, Governor Bourke strongly protested† against the grant of a seat to the bishop in the council. He objected to a dignitary of the church of England holding a seat, whilst the clergy of all other denominations were excluded; and he considered that all ministers of religion should be removed “ from the contention of political assemblies.”

When a vacancy was caused in the council by the death of Archibald Bell, Governor Bourke proposed‡ the appointment of Sir John Jamison. Jamison, although a free emigrant, was a member of the emancipist party, and was nominated by Governor Bourke to neutralise, if possible, the influence of the emigrant party in the council.

In order to develop the idea of self-government, Governor Bourke advocated the principle of local government, and proposed the appointment of commissioners for the town of Sydney to control the streets, sewerage, water supply, lighting, etc., but this proposal was unacceptable to the inhabitants.

After reading the despatches, it is evident that the policy of Governor Bourke was liberal and progressive. He believed in the equality of recognition for all religions, and the equitable representation of all interests and parties in the legislature.

During the period of Governor Bourke's administration, the British government introduced some vital changes in the principles of legislation by the council, and had under consideration the statute rendered necessary by the expiration of the act, 9 Geo. IV, c. lxxxiii, which enunciated the principles of government in the colony.

One of the most important changes was made by the issue of instructions for the submission of financial estimates annually to the council. These instructions form the fundamental basis, on which estimates are submitted to the parliaments in Australia at the present day, and were contained in a circular despatch,§ dated 4th March, 1832. The governor was ordered to submit to the council, before the expiration of the month of June in each year, an estimate of the fixed and contingent expenditure “ intended to

* See pages 623 and 624, volume XIV. † See page 439 *et seq.*

‡ See page 754 *et seq.* § See note 32.

be charged on the colonial revenue for the year then next ensuing." If such estimate was approved by a majority of the council, an appropriation act for the amount involved was passed and transmitted for approval to England. A minority of the council might dissent from the estimate or from any items of it, and such dissent was recorded in the minutes of the council and transmitted to England with the estimate. If the estimate was rejected by a majority of the council, such majority was required to furnish one in substitution. If the governor then still preferred the original estimate, both estimates were submitted to England with reasons in support from both sides.

In compliance with these instructions, Governor Bourke submitted with the annual estimates to the council a minute, " explanatory of the several Heads of Expenditure, and of Ways and Means, as Estimated for the year . . ." This minute corresponded to the financial statements of modern treasurers. The first minute was submitted on the 27th of September, 1832, with the estimates for the year 1833, the despatch being received too late to submit the estimates prior to the 30th of June. After the estimates were laid before the council, each item of appropriation was considered under a separate resolution, and this practice is still followed. It is of interest to note that, at the opening of each session, the governor read an address to the council detailing the proposed work of the session. This address corresponded to the governor's speech on the opening of modern parliaments; but, in the former case, the subject-matter was entirely at the discretion of the governor as he held the sole right of initiating measures in the council, whilst in the latter it is at the discretion of his responsible ministers.

The method for recording dissent from any item of the estimates, or " protest " as it was called, was regulated by a standing order of the council, passed on the 24th of June, 1835. Such " protests " were " to be delivered in writing, and signed by the Member or Members protesting, to the Clerk at the Council Chamber by Twelve o'clock at Noon of the Day, next after that upon which the Appropriation Act is passed."

The power of protest was an important concession, and was first exercised by John Blaxland on the 9th of October, 1832, against the payment of a salary for the British resident in New Zealand, and of a British pension for A. Macleay, the colonial

secretary. These protests* were repeated in the following year. In reply, the secretary of state refused to entertain the protest against the salary of the British resident; but, on the second protest, he proposed† “to relieve the Colonial fund from the charge (*i.e.*, of A. Macleay’s pension) by transferring it to that derived from the Droits of the Crown.”

On the 18th of July, 1834, John Blaxland recorded a protest against the appropriation of £11,387 8s. 9d. from the colonial revenue for the department of survey and public works. The object‡ of this protest was to “assert the right of the Colonial Legislature to appropriate the Land Revenues.” In reply,§ the secretary of state made the important admission “that it is but just and reasonable that those Revenues should be applied wholly and exclusively for the benefit of the Colony.” At the same time, he gave instructions, equally important, for the payment to the colonial treasury of “whatever revenue of the Crown may remain unappropriated at the expiration of every year, after paying the expenses incurred on account of Emigration, and . . . any other charges which His Majesty’s Government should think proper to direct should be borne on that Revenue.”

In February, 1835, an informality was discovered|| in the deeds for all land grants, which had been issued from the foundation of the colony. The informality was due to the deeds being in the name of the governor instead of in the name of the King. This informality affected the titles to all lands in the colony, and some action was necessary to affirm the validity of the land grants. In his reply,¶ dated 30th September, 1835, the secretary of state enunciated an important constitutional principle. He stated that, excluding the impractical method of issuing new deeds, there were two methods of correcting the error, either by an act of the British parliament, or by an act of the governor and council. He objected to the first method, because “this is a subject very little fitted for the cognizance of Legislative Bodies on this side of the World. *It would be one of those interferences in the internal Economy of the Colonies, which are to be deprecated as much on the ground of general convenience as on that of Constitutional Principle.*” He was also of opinion that the subject could be discussed with equal or greater propriety by the local legislature. This principle has

* See pages 182 and 183, volume XVII.

† See page 89, volume XVII.

‡ See page 406, volume XVII.

§ See page 21.

|| See page 664 *et seq.*, volume XVII.

¶ See page 107 *et seq.*

now become the almost universal practice in all the self-governing dominions and colonies of the British empire. To correct the error in the land deeds, the secretary of state ordered Governor Bourke to introduce an act of council, confirming the validity of all deeds issued to date, and transmitted at the same time the royal approval for such an act. He also stated that a British statute would be passed to confirm the act of council, if any doubt was raised as to the validity of the said act.

Nine months later in November, 1835, the secretary of state gave general instructions* with regard to the church and school establishments. In doing so, he confirmed his previous opinions by stating "a general principle, to which I am anxious to adhere on this as on other matters affecting the internal interests of the Colony, is that the details of the measures to be adopted should be left to the decision of that Body, to which, by the existing Constitution, Legislative powers have been entrusted, and which must be supposed to be best informed as to the wants of the Population and the most efficient and satisfactory means of supplying them."

On the 29th of June, 1832, Henry Lytton Bulwer, on a motion in the house of commons to establish some system of representative legislation in the colony, obtained a statement from the government. Viscount Howick in reply was averse to the proposal. He stated that he was desirous of extending the benefits of the British constitution throughout the colonies; but Lytton had failed to notice the difficulties prevalent in the colony of New South Wales. The inhabitants of the colony were composed of convicts and two parties, the emigrants and the emancipists, whom he stated were bitterly opposed. He was averse to giving representation exclusively to the emigrant party, thus giving it power over all classes. Further, if a representative system was introduced, as the emancipists formed the larger class, the emancipists would probably form the majority of the elected, and he was opposed also to giving them the legislative power in the colony. For these reasons he opposed the motion; and it was defeated.†

* See page 201 *et seq.*

† When the account of this debate was sent to the colony, the agent of the colonists stated that funds were necessary to influence the press; "perhaps," he stated, "it would hardly be imagined that the editor of a leading morning paper refused to even notice the subject of debate unless he received £50."

The opinions of the British government changed as the result of Governor Bourke's representations and the popular agitation. But Governor Bourke's proposals,* dated 26th December, 1835, were received in England too late to be made effective during his administration, and the statute, 9 Geo. IV, c. lxxxiii, was renewed for a further term to the 31st of December, 1837, or the end of the next session of parliament, by the statute, 6 and 7 Wm. IV, c. xlvi, passed on the 28th of July, 1836.

The active popular agitation for reform of the legislative council during the administration of Governor Bourke may be said to date from the 26th of January, 1833, after the remarks by viscount Howick in the house of commons on the 29th of June, 1832, had been received in the colony. On that date, a meeting was held in the court-house, Sydney, with Thomas Macquoid, the sheriff, in the chair, to advocate the claims of the colonists to a representative legislature. The first speaker was Sir John Jamison. He stated that the colonial revenue for 1833 would probably be £150,000; that the exports were valued at nearly £500,000; that the imports were approximately of the same value; and that the colonists were no longer satisfied with the existing method of raising the revenue and its appropriation. He denied the existence of excessive party quarrels in the colony, and considered that viscount Howick was the only opponent in the house of commons to the granting of reform. James Macarthur also addressed the meeting. He stated that viscount Howick was not the only opponent, but that O'Connell had suggested as a tentative reform that four out of the fifteen members of the existing council should be elected. Macarthur stated that "he was not prepared to say that the colony was ripe for a representative assembly." After discussion, Sir John Jamison moved the adoption of a petition to the King, requesting him "to bestow upon the colonists the right of electing their own representatives for the internal taxation and government of the colony." The petition was then adopted.

A petition to the house of commons was then moved by W. C. Wentworth, and seconded by W. Lawson, and adopted unanimously by the meeting. In moving the petition, Wentworth stated that the opposition to the desired reform was "narrowed to one point, namely, the party feeling which, as is alleged, subsists between the emigrant and emancipist populations." He ridiculed the idea of such opposition. He criticised the existing

* See page 246 *et seq.*

constitution of the council, and alleged that the members were subservient. He protested against the appropriations for the pension of A. Macleay, the salary of the resident in New Zealand, the salaries of the governor, of the judges and of the archdeacon, and the expense of the survey departments. He stated that the taxation for every free man, woman and child was £3 *per head*. He protested strongly against the maintenance of such a system.

In the petition, a lengthy statement was made in denial of the allegations that such a state of party feeling was existing as to prevent the successful introduction of a representative legislature. It was noted that many public institutions were successfully established, and conducted conjointly by emancipists and emigrants. It was alleged that the existing council did not protect the interests of the colony, but only protected the executive government from the responsibility of measures which were injurious to the colony. The establishment of a representative assembly, founded on the basis of property and population, was urged, and the right of imposing taxes and appropriating the revenue was claimed for the representatives of the colonists.

Before the conclusion of the meeting, it was decided to request the governor to appropriate £1,000 *per annum* for the salary of a parliamentary agent to be elected triennially by freeholders and householders.

In the month of July following (1833), another public meeting was called at Sydney, when a petition* to the governor and council was adopted on the motion of W. C. Wentworth. This petition was in protest against numerous items of expenditure for the year 1834, which were voted by the council in the then current session.

In June, 1834, Governor Bourke, in submitting the estimates for the year 1835, announced the decision of the secretary of state for the payment of the pension to A. Macleay from "the droits of the Crown." This decision and the estimates themselves raised a storm of protest. A public meeting was held on the 28th of August, when strong resolutions† of protest were carried. At this meeting, W. C. Wentworth, the Reverend R. Mansfield, W. Lawson, Dr. W. Bland and J. Chisholm took a prominent part. Resolutions were carried affirming the principle "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

* See note 95, volume XVII.

† See note 128, volume XVII.

revenue," and expressing alarm at the diversion of "a portion of these funds, under the novel denomination (at least in the Colony) of Droits of the Crown."

The Australian Patriotic association* was formed "to obtain for the free inhabitants of New South Wales a *bona fide* representative government." In 1835, this association requested† Governor Bourke to appropriate the sum of £2,000 annually "to defray the expenses, attendant upon the appointment of a Parliamentary advocate and two Secretaries, together with the rent of offices, Stationery and other contingent charges." H. L. Bulwer was the proposed advocate, but the request was refused by Governor Bourke, and the refusal was endorsed by the secretary of state. In his reply,‡ the secretary of state objected to the proposed election of the advocate and secretaries on a system of popular representation, originating in an act of council wherein the representative system was wholly unexplained. He also objected to the payment of a member of parliament for his services in parliament, as such a measure would be alien to the spirit and principles of the British constitution. At the same time, he stated that the appointment of an agent, under proper regulations, would be sanctioned after the passing of the intended new statute for the government of the colony.

In November, 1834, instructions§ were transmitted to Governor Bourke to provide out of the colonial revenue for the expenditure on the police and gaol establishments, hitherto charged on the military chest, the funds of which were provided by the English treasury. At the same time the military chest was still to provide for all charges immediately connected with the custody and superintendence of convicts. In accordance with these instructions, Governor Bourke, in June, 1835, submitted to the council a supplementary estimate for the appropriation of £20,000 for the police and gaol establishments for the last six months of the year 1835, and a general estimate of £45,000 for the same purpose for the year 1836.

These proposals were met immediately with strong opposition, both within and without the council. A petition|| signed by many leading colonists was presented to the council on the 31st of July, protesting against the expenditure. On the same day, the council divided on the motion for the appropriation of £20,000 in the

* See note 16. † See page 48. ‡ See page 258.
§ See page 578 *et seq.*, volume XVII. || See note 33.

supplementary estimate for 1835, and the motion was carried by seven votes to six. The motion for the appropriation of £45,000 for the year 1836 was then agreed to without division. Although the appropriation was carried by one vote, two official members, lieutenant-colonel Snodgrass and W. Lithgow the auditor-general, and one unofficial member, A. Bell, voted in the affirmative only to save the executive government from embarrassment, although they were opposed to the appropriation. The six members, who voted in the negative, were R. Campbell, E. C. Close, A. Berry, R. Jones, H. H. Macarthur and J. Blaxland. It is a remarkable fact in this early political crisis, in the Australian colonies that, although the executive government succeeded in carrying the vote, nine out of the thirteen members who voted, exercised their right of recording in the minutes of the council a protest against the appropriation. Governor Bourke, who presided in the council, was also of opinion that the appropriation should be modified.*

A summary of the protests recorded by the members of council indicates the reasons for the opposition, both within and without the council.

Lieut.-colonel Snodgrass considered that the circumstances of the colonial revenue did not "warrant so large an annual call upon its resources for such a purpose," but he was prepared to give unqualified assent to the appropriation of two-thirds of the amount or £30,000 for the year 1836.

W. Lithgow, the auditor-general, considered that only a portion of the expenditure should be a charge on the colonial revenues, and the balance should be borne by the English treasury. His reasons were as follows:—(1) The greater portion of the charge was due to the colony being appointed as a place of banishment for malefactors from Great Britain, whose removal was a benefit to the mother country. (2) The colony contributed the entire expenditure on the judicial establishment, and on food and clothing for upwards of twenty thousand convicts; and this was an adequate return for the advantages derived by the colonists from the labour of convicts. (3) Many public works were urgently required; but these could not be successfully undertaken without immigrants, who were obtained by appropriations from the land revenues. But the appropriation for police and gaols must encroach on these revenues, for the general revenues were inadequate to meet the expenditure.

The unofficial members protested against the entire appropriations of £20,000 and £45,000.

R. Campbell and E. C. Close protested for the following reasons:—The ordinary revenue of the colony (about £160,000) was required for other purposes, and therefore the charge of £65,000 must be defrayed from the land revenues, which the secretary of state had allocated to the encouragement of immigration. The first and second objections by W. Lithgow were repeated in extended form. The transfer of the entire charge for the police and gaols to the colonial revenue would make the British government averse to the cessation of transportation to the colony. The appropriations had been carried by the official members of council in opposition to “the sentiments of a large majority of the respectable Inhabitants of the Colony.”

A. Berry, R. Jones and H. H. Macarthur repeated the first and second objections by W. Lithgow, and emphasised the facts that the colonial revenue was inadequate, and that the English treasury was relieved from an annual expense of about £250,000 by the maintenance of twenty thousand two hundred and seven convicts by the colonists.

J. Blaxland protested because the under secretary of state had admitted that the expenditure on police and gaols was principally due to the presence of convicts, and because the English treasury was saved large sums by the transportation of convicts to the colony. He quoted figures, showing that the colony had produced a net saving to the English treasury of £1,913,462 17s. between the years 1786 and 1821, provided the same number of convicts transported to the colony had been kept in hulks in Great Britain, or of £11,008,837 5s. 6d., if the convicts had been kept in penitentiaries. He also reiterated the second and third objections by W. Lithgow.

Similar reasons were used in the agitation outside the council. Although the protests had no immediate effect, proof was given that the colonists were determined to exercise some control over the administration of public affairs, of which the finances are always the dominant interests.

For some years, the land revenues had been appropriated to the assistance of immigration; but the revenue had greatly exceeded the expenditure. As the result, there was a balance, principally in

specie, in the colonial treasury in August, 1835, amounting to £129,714 3s. 6d. Such an accumulation of specie disorganised general finance in the colony, and the accumulation in the treasury led to A. Berry and H. H. Macarthur, both members of council, publicly announcing themselves in 1835 as advocates of reform, and declaring that the council as constituted was not suited to the conditions in the colony.

In December, 1835, meetings of the Australian Patriotic association were held to consider the form of a representative legislature, which should be recommended for adoption by the British parliament. Three different plans were proposed. One suggested that there should be one legislative body, consisting of fifty members, ten to be nominated by the crown, and forty elected by the people. In a second plan, the formation of two houses was proposed. The upper house was to consist of fifteen members, five nominated by the crown and ten elected by the people, and a lower house of fifty members, all elected by the people. In the third plan, two houses also were proposed. The upper house was to consist of twenty members of whom four, the chief justice, the senior military officer, the colonial secretary and the colonial treasurer, were to hold their seats *ex officio* with the chief justice as speaker. The sixteen remaining members were to be elected by fifty unpaid magistrates chosen by the governor. The lower house was to consist of fifty members, of whom six were to hold seats *ex officio* as attorney-general, solicitor-general, under secretary, principal customs officer, auditor-general, and principal superintendent of convicts. The remaining forty-four members were to be elected by the people. All persons qualified to sit as jurors were eligible as members, and all persons over twenty-one years of age, possessing an estate of the value of £10 *per annum* or paying an annual rental of the same amount as a householder, were eligible as electors. The principles of the ballot and the representation of minorities were included in this plan. It was proposed to attain the latter by prohibiting any elector from voting for more than two candidates in a constituency represented by several members. This third plan was the work of David Poole, a solicitor in Sydney.

These plans were under discussion for several days. W. Bland advocated one house, one fourth or fifth of the members to be nominee and the remainder elective. He objected to an upper house nominated by the crown, because the best of the colonists

would be selected, and the lower house would suffer. Some speakers approved of one house, but objected to the presence of any nominee members. E. Biddulph suggested that the existing council should form an upper house, and the lower house should consist entirely of elective members. Another speaker suggested that, if nominee members were included, a single house was preferable in order, if necessary, to combat the arguments of the nominees by elective members.

Ultimately it was decided to include the first two proposed plans in two draft bills, to be transmitted to H. L. Bulwer, leaving to his discretion the adoption of one of them for advocacy in the house of commons.

In April, 1836, Governor Bourke transmitted three petitions* to England; two of these contained the opinions of the conservative element of the community and were prepared at the house of R. Jones, a member of council; the third was adopted at a public meeting† at Sydney. The conservatives objected to the constitution of the council because a majority of its members were government officers; the debates were not opened to the public; the members had no power to originate legislation; and the governor was present as president *ex officio*. A protest was made against the legislative and judicial functions held jointly by the chief justice, the proposed property qualifications for franchise as wealth was easily acquired in the colony, and the proposed grant of full civil rights to expees. A full inquiry was urged before any change was made in the constitution and functions of the council, although it was stated that the council was "inadequate to the exigencies of the Colony," and had "no hold upon the public confidence." The third petition was signed by Sir John Jamison as chairman. It alleged that the object of the conservative petitions was to delay the introduction of reforms. It urged the establishment of "a Legislative Council and Assembly, consisting of not fewer than fifty Members, three-fourths of whom to be elected by your Petitioners, and the remaining fourth to be the nominees of His Majesty."

In June, 1836, a petition was presented to the council from certain proprietors and editors of newspapers, "praying that the doors of this Council may be open during the Sessions, in order that authentic Reports of its Proceedings may be furnished to the Public." The petition was ordered to lie on the table.

* See page 392 *et seq.*

† See note 113.

The presentation of this petition to the council practically concluded the active agitation for a representative legislature or reform of the council during the administration of Governor Bourke. The passing of the new bill for the government of the colony was expected by the colonists during the session of parliament in the year 1836, and no further agitation in the colony could exert any influence. When a temporary bill (6 and 7 Wm. IV, c. xlvi) was passed on the 28th of July, 1836, for extending the duration of the existing statute, the immediate renewal of the agitation was unnecessary. Owing to the death of William IV in 1837 and the consequent sudden termination of the session of parliament, the existing statute was again renewed for a further period of twelve months to the end of the year 1838 by the statute, 1 Vic., c. xlii.

It will, however, be realised that the era of Governor Bourke was a most important one in enunciating the principles of self-government for the colony. The movement received the active and cordial support of Governor Bourke. At the beginning of his administration, the agitation was almost entirely in the hands of the emancipist or liberal party; at the conclusion, both emigrant and emancipist, conservative and liberal parties were in favour of the reform of the council, although the conservative party was still hesitant as to the exact nature of the reforms required.

In the administration of justice, as in the legislative sphere, some important changes were introduced and some proposed during this period.

Prior to the arrival of Governor Bourke, an order-in-council* was passed on the 28th of June, 1830, authorizing the passing of an act of council for "proceeding by Grand and Petit Juries, or either of them, in the presentment and Trial of all Crimes, Misdemeanors, issues, matters and things properly cognizable by Juries."

When Governor Bourke arrived in December, 1831, the principle of military juries still prevailed in the criminal jurisdiction of the supreme court. He carried instructions† to inquire as to the propriety of introducing civil juries, and was authorised, if he was in favour of the change, to pass an act of council for proceeding by petit juries in criminal trials.

* See page 588, volume XV.

† See page 214, volume XVII.

Governor Bourke's decision was prompt. In his opening address to the legislative council on the 19th of January, 1832, he stated that he was led to believe by the judges of the supreme court and other persons in the profession of the law "that the time has arrived, at which the trial of all Criminal Issues may be advantageously committed to Civil Jurors." He regretted his inability to introduce a bill during that session, principally owing to the want of circuit courts. On the 3rd of February, he passed an act* for regulating the constitution of juries and the trial of civil issues in the supreme court. This act was a repetition with a few amendments of the act passed by Governor Darling. In a despatch,† dated 6th February, 1832, Governor Bourke strongly advocated the introduction of civil juries for the trial of criminal issues. He stated that the judges, nearly the whole of the legal profession, and the great majority of the free people were in favour of the change, although some members of the legislative council were opposed to it, possibly through the erroneous opinion that the British government was adverse to the change. He had not availed himself of the authority to introduce the reform, pending the institution of circuit courts, for which he requested an order-in-council. In a despatch,‡ dated 28th February, 1832, he stated that the opposition in the legislative council came from the official members and from five out of the seven unofficial members, and was due to the desire to exclude from the jury lists all persons, who had not arrived free in the colony, notwithstanding the fact that persons, who had received a pardon or served a sentence of the law for certain offences, were eligible on such lists in England.

Governor Bourke received no instructions in reply to these despatches. Accordingly, when the council assembled in May, 1833, he announced his intention of introducing a bill for the trial of criminal issues by petit juries, composed of the inhabitants of the colony. On the 17th of July, Governor Bourke introduced§ in the council "A Bill to continue for a limited time an Act of the Governor and Council of New South Wales, intituled 'An Act|| for regulating the Constitution of Juries and for the trial of Issues in certain cases in the Supreme Court of New South Wales,' and to make further provision for the Trial by Jury in Criminal cases in the said Colony." This bill encountered strong opposition, was amended, and then not passed until the 28th of August on the

* 2 Wm. IV, No. 3. † See page 515, volume XVI.

‡ See page 542 *et seq.*, volume XVI.

§ See pages 214 *et seq.* and 236 *et seq.*, volume XVII. || 2 Wm. IV, No. 3.

casting vote of the governor, six members voting in the negative. On the 14th of August, the opposition attempted to ruin the bill by moving the omission in the first clause of the words "and to make further provision for extending Trial by Jury in all Criminal Cases in the said Colony"; this motion was defeated only by seven votes to six. The opposition to the bill arose from six out of the seven unofficial members, the archdeacon, and "one, if not two," of the remaining official members. The passing of the bill was only secured by the casting vote of Governor Bourke, by the accidental absence of R. Campbell, who was an unofficial opposing member, and by the conciliation of the "one if not two" official members through the acceptance of an amendment* to the second clause, which provided for "the trial of criminal issues in the Supreme Court to be by a jury of twelve inhabitants, *if desired by the accused.*" The opposition† was due principally to the desire to exclude all emancipists from sitting as jurors, notwithstanding the opinion‡ of the three judges that many emancipists were eligible as jurors under the law of England.

This act of council, 4 Wm. IV, No. 12, was copied from the provisions of the English jury act, 6 Geo. IV, c. 1. The qualifications were higher in the colonial act, but the exemptions and the right of challenge were the same. The act was limited in duration to the 30th of June, 1835.

It is evident that the practical introduction of the British jury system was due principally to the initiative of Governor Bourke. The only differences then existing between the two systems were that in the colony "(1) There was no Grand Jury; (2) The Criminal was tried either by seven Naval or Military Officers or by a Jury of twelve Civil Inhabitants of the Colony, as he shall choose upon being arraigned in Court; (3) Civil Litigants had their cases tried by a Judge and two Assessors, unless either of the Parties applied to the Court and obtained a jury of twelve men."

Instructions with reference to the jury system and the erection of circuit courts were withheld during the whole period of Governor Bourke's administration, partly in anticipation of the grant of a new charter of justice, and later of the passage of a new bill for the government of the colony. In consequence, Governor

* The addition of the words in italics was the amendment.

† See page 239, volume XVII.

‡ See page vii, volume XVII.

Bourke extended the operation of the jury act by annual acts, passed on the 23rd of June, 1835, 9th of June, 1836, and 2nd of June, 1837, and these acts met with similar but not so pronounced opposition in the council.

An important change was made in the legal profession during this period. In the year 1831, the judges established certain rules for the conduct of business in the supreme court. One* of these rules provided for the division of the legal profession into barristers and solicitors, and defined the qualifications required for each; but it was "provided that this Rule shall not take effect until His Majesty's pleasure shall first be made known." In a despatch,† dated 2nd November, 1833, Governor Bourke requested approval of the rule, and this was granted by the secretary of state in a despatch,‡ dated 6th June, 1834.

In January, 1834, the judges recommended§ numerous reforms in the administration of criminal justice. These reforms related principally to administration and procedure, and were of a technical nature, excepting the appointment of stipendiary magistrates and the establishment of circuit courts.

In the petitions from the colonists in April, 1836, protests|| were made relating to the tenure of office by the judges of the supreme court. At that period, the judges were liable to be dismissed at pleasure; and it was contended that they should retain office during good conduct.

In September, 1836, John Kinchela, who was at that time acting puisne judge during the absence of the chief justice F. Forbes, proposed¶ that there should be a fourth judge of the supreme court, to act as an equity judge. He suggested that "the opinion of such Equity Judge might be subject to an appeal to the full Court, or his duty might be to submit his opinion to His Brother Judges for their approbation, before he pronounced a decree in any case." In reply** the secretary of state expressed the opinion that the appointment of a judge in equity was one of those questions, which should be referred to the decision of the local legislature, to be constituted under the new act for the government of the colony. He thus reiterated the principle†† of non-interference

* See page 260, volume XVII.

† See page 259, volume XVII.

‡ See page 453, volume XVII.

§ See page 361 *et seq.*, volume XVII.

|| See pages 393, 398 and 400.

¶ See page 531.

** See page 733.

†† See page xi.

with the internal administration of a colony where a legislative body was established.

The story of the settlements on the shores of Port Phillip during the administration of Governor Bourke is one of the romances of modern colonisation, and it was principally due to the tactful policy of Governor Bourke that the unauthorised occupation of the lands by white people was quickly changed into a well-ordered and well-governed settlement.

The settlements were formed about the sites of the modern cities of Melbourne and Geelong and were due to the activities of the Geelong and Dutigalla or Port Phillip association* through the agency of John Batman. At the beginning of the year 1835, the flocks and herds in Tasmania were increasing rapidly at the same time as unlocated grazing land became scarce. Reports were also current of abundant and excellent pasture on the northern side of Bass strait. John Batman and fourteen others conceived the plan of obtaining some of this land from the aborigines. John Batman was a settler near Ben Lomond in Tasmania, and for some years had considered the problem of settling in southern Australia; and, of his fourteen associates, all were residents of Tasmania except G. Mercer, the principals being C. Swanston, J. T. Gellibrand and J. Simpson. In May, 1835, in prosecution of the plan Batman chartered the *Rebecca*, a small vessel of twenty-three tons, and sailed from Launceston for Port Phillip, returning to the same town a month later. During this interval, Batman obtained the cession from the natives of two areas of land, amounting in all to six hundred thousand acres† on the northern and western sides of Port Phillip, in return for a number of blankets, knives, tomahawks, looking-glasses, scissors, tons of flour and articles of clothing, and the promise of an annual tribute of similar articles. This cession was completed by two deeds, describing the land and the contract, signed by J. Batman and eight aboriginal chiefs, and duly witnessed by J. Gumm, A. Thompson and W. Todd, who accompanied Batman in the *Rebecca* and remained at Indented head when Batman returned to Launceston.

After Batman's return to Tasmania, articles of association were drawn up and signed on the 29th of June, 1835, and the Port Phillip association was definitely constituted. The interests of the syndicate were divided into seventeenths, of which two were

* See note 108.

† See note 40.

assigned to J. Batman, one to J. and W. Robertson jointly, and one each to the twelve remaining members. The remaining two-sevenths were assigned in trust to G. Mercer, to be used by him in advocating the claims of the association in England. It was agreed that each member at his own expense should deliver to J. Batman at Port Phillip five hundred good breeding ewes within six months, and five hundred more within twelve months, and that each member should pay the wages of the overseers, etc., necessary to supervise his flocks. The articles also provided that J. Batman and J. H. Wedge, a surveyor, should have the general superintendence of the settlements at Port Phillip; that the two areas of land should be properly surveyed and each subdivided into seventeen shares; that no liquor should be imported; that all negotiations with the natives should be entrusted to J. Batman; and that all expenses should be paid proportionately by the members. Provision was also made for the distribution of the land amongst the members, so soon as the government recognised a title of the association to the land, and for the prohibition of any proprietor from disposing of his land for a space of five years except to a co-proprietor. A separate deed was signed on the 30th of June, 1835, whereby J. Batman transferred the land he had acquired to C. Swanston, J. T. Gellibrand and J. Simpson as trustees for the association.

In the meantime on the 25th of June, J. Batman had submitted to G. Arthur, the lieut.-governor of Tasmania, a report on his visit to Port Phillip and the acquisition of the land from the natives. On the 3rd of July, John Montagu, the colonial secretary, replied and stated "that the recognition of the rights, supposed to have been acquired by the Treaty, into which you have entered with the natives, would appear to be a departure from the principle, upon which a Parliamentary sanction, without reference to the aborigines, has been given to the settlement of Southern Australia as part of the possessions of the Crown." In writing to the secretary of state on the 4th of July, lieut.-governor Arthur, referring to J. Batman, stated "as regards the confirmation of his treaty with the natives, I have plainly told him I could not hold out the slightest prospect of its being favourably considered." Some weeks later, Arthur submitted a report with Batman's statement to Governor Bourke.

As soon as he received this report, Governor Bourke issued a proclamation,* dated 26th August, 1835, declaring every "treaty,

* See note 42.

bargain and contract with the aboriginal natives" for the acquisition of land within his jurisdiction to be "void as against the rights of the Crown"; and all persons, found in possession of such lands without license or authority from the government, to be trespassers, and "liable to be dealt with in like manner as other intruders upon the vacant lands of the Crown." This proclamation was issued with the advice of the executive council and was necessary for asserting the rights of the crown.

In a despatch* dated 10th October, 1835, Governor Bourke submitted a report to Lord Glenelg, and advocated the early occupation of Port Phillip. He stated full and convincing reasons. "Admitting, as every reasonable person must, that a certain degree of concentration is necessary for the advancement of wealth and civilisation, and that it enables Government to become at once efficient and economical, I cannot avoid perceiving the peculiarities, which in this Colony render it impolitic and even impossible to restrain dispersion within limits that would be expedient elsewhere." He stated that wool was at that time the chief source of wealth in the colony, and that "a free range over the wide expanse of native Herbage, which the Colony affords," was the only means of maintaining the increased production. He considered it improvident to raise artificial food for stock, "whilst Nature presents all around an unlimited supply of the most wholesome nutriment" beyond the limits of location. Apart from "these powerful reasons for allowing dispersion," he admitted that government was unable to prevent it. "No adequate measures could be resorted to for the general and permanent removal of intruders from waste Lands, without incurring probably a greater expence than would be sufficient to extend a large share of the control and protection of Government over the country they desire to occupy. One principal objection to dispersion thus becomes as powerful against its restraint." As a solution of the problem, "how may this Government turn to the best advantage a state of things which it cannot wholly interdict," Governor Bourke proposed the sale of land in advantageous situations, irrespective of their distance from other locations, and the establishment of separate centres of civilisation and government. He proposed therefore that a township† should be marked out at Port Phillip, and that the town allotments and a portion of the adjoining land should be sold. The proceeds, he suggested, should be

* See page 153 *et seq.* † See note 43.

applied to the cost of the survey and measurement of the land, the appointment of a police magistrate, a constabulary force and an officer of customs, and the establishment of schools.

In his reply* to this despatch, dated 13th April, 1836, Lord Glenelg fully approved of the policy proposed by Governor Bourke. He admitted that the government was unable to prevent the dispersion of settlement, and that "all that remains for the Government in such circumstances is to assume the guidance and direction of enterprises which, tho' it cannot prevent or retard, it may yet conduct to happy results." He further suggested that Batman and his associates had "given birth to undertakings, which deliberate reflection would have recommended rather than discouraged."

In the meantime, emigration from Tasmania to Port Phillip had commenced in July, 1835, and continued uninterruptedly, and large shipments of stock were carried across Bass strait. Within twelve months of the date of Batman's treaty with the natives, Governor Bourke sent a magistrate, G. Stewart, to report on the settlement. On his return to Sydney, Stewart submitted a report† dated 10th June, 1836. He stated that the European population at Port Phillip numbered one hundred and forty-two males and thirty-five females; that the number of sheep were computed at 26,500, of horses at 57, and of horned cattle at 100; and that the estimated value of the whole stock, together with farming implements, etc., was computed at £80,000. He also stated that eleven vessels, varying in burthen from fifty-five to three hundred tons, had been employed in making forty-eight voyages with live stock from Tasmania.

On the 1st of June, 1836, a public meeting was held at the settlement on the Yarra, when it was mutually agreed to submit all disputes, except those relative to land, to the arbitration of James Simpson "with power to him to name two assistants, when he may deem fit," and to impose any fine he might think equitable. Resolutions were also carried at this meeting for the protection of the aborigines; for a reward of five shillings *per* head for the destruction of wild dogs; and for the preparation of a petition to Governor Bourke, requesting him to appoint a resident magistrate at Port Phillip.

After receiving Lord Glenelg's despatch, Governor Bourke issued a proclamation‡ dated 9th September, 1836, announcing

* See page 379 *et seq.* † See volume in series III. ‡ See note 149.

that His Majesty's government had "authorised the location of settlers on the vacant Crown lands adjacent to the shores of Port Phillip," and that he had appointed captain William Lonsdale to be police magistrate for the settlement. Lonsdale arrived in the Yarra on the 1st of October, 1836. Three surveyors to lay out the township, a constable, an officer of customs, and a lieutenant with thirty soldiers were appointed for duty at the settlement.

Governor Bourke visited Port Phillip in March, 1837. He approved of the situation chosen by J. Batman and directed a town to be laid out on the banks of the Yarra river to be called Melbourne,* and a town on Hobson's bay to be called Williams Town. He directed one hundred allotments at Melbourne and a few at Williams Town to be sold† on the 1st of June. At this time, there were about five hundred settlers and one hundred thousand sheep in the district.

In a despatch‡ dated 14th June, 1837, Governor Bourke made proposals for the administration of the settlement. He suggested the establishment of government steam vessels to maintain communication with Sydney. To diminish the necessity for frequent intercourse, he proposed the appointment of a military officer as lieutenant-governor or commandant with civil and military authority, to whom all officers in the settlement would be responsible. He did not think a separate legislature was necessary; but that a representative might attend the legislature at Sydney as the appointed or elected member of the district. He proposed the appointment of a fourth judge of the supreme court at Sydney, to hold assizes half-yearly at Port Phillip; and suggested that all expenditure on the settlement should be defrayed from the revenue from the sale of lands and the collection of customs duties at Port Phillip. These suggestions formed the basis for the form of government which was established for the district of Port Phillip.

In the meantime, G. Mercer, acting in Great Britain, on behalf of the Port Phillip association, conducted negotiations§ to secure the recognition of the title to the land, acquired by J. Batman from the natives. The secretary of state, however, refused to admit the title but agreed to allow the first settlers, if practicable, "a priority of purchase on moderate and easy terms of any lands," occupied or improved. The final settlement of the claims of the association

* See note 213.

† See note 214.

‡ See page 780 *et seq.*

§ See page 381 *et seq.*

was made by the executive council at Sydney, which granted to the association an allowance of £7,000 on any lands purchased in its behalf. This allowance was computed as compensation to the association for £2,390 expended on the natives, £2,600 for the vessel engaged, and £2,010 for the expenses of J. Batman in securing the treaty with the natives and of J. H. Wedge in his survey.

The full story of the settlement at Port Phillip will be found in a volume in series III. This brief narrative is intended merely to note the influence of Governor Bourke.

FREDK. WATSON.

September, 1923.

DESPATCHES.

HISTORICAL RECORDS

OF

AUSTRALIA.

SERIES I.

UNDER SECRETARY HAY TO SIR RICHARD BOURKE.

(Despatch per ship Mary Ann.)

Sir,

Downing Street, 2d July, 1835.

1835.
2 July.

I am directed by Lord Glenelg to forward to you a communication from Mr. Richard Linch, a resident in New South Wales, representing the disappointment, which he has experienced in not being able to procure Land either there or at Van Diemen's Land under the old Regulations; and I am to request that you will have the goodness to inform Mr. Linch that his Lordship does not perceive anything in his statement, which would justify any relaxation in his favor of the present Land Regulations.

Transmission
of application
from R. Linch.

Refusal of
request of
R. Linch.

You will, also, observe to Mr. Linch that his application ought to have been sent through the Governor, in conformity with the Rule* laid down upon that subject.

I am, &c.,

R. W. HAY.

[Enclosure.]

MR. R. LINCH TO SECRETARY OF STATE.

Pitt Street, Sydney,

New South Wales, 22nd January, 1834.

My Lord,

I have the Honor to enclose copies of a correspondence between the Government of this Colony and myself regarding a Grant of land either in this Colony or Van Diemen's Land, on the faith of which I came to this Colony from London in the year 1828 and embarked all my property and my future prospects here; and I beg leave most distinctly to state that without such promise of land I would not have come to this Colony and I am prepared to prove so.

Application by
R. Linch for
land grant.

His Excellency the Governor here has such difficulties to contend with between delays and defects (in completion of former matters, business of this kind) and the instructions from home sent to his Excellency that I can only complain of his Excellency's inability to do me Justice; but I do most earnestly and anxiously beseech that

1835.
2 July.

Application by
R. Linch for
land grant.

such orders will be given from your Lordship's Department as will allow His Excellency the Governor here to relax the rule under which his Excellency is now prevented from interfering and that the Governor shall be authorized to give me the Land subject to the truth of my assertions being proved to His Excellency's satisfaction.

I am enabled to state to your Lordship that, if recommendatory character from this Colony can assist me in receiving my just right. I shall be able to transmit to your Lordship a testimonial and a Petition from most of the respectable inhabitants of Sydney on my behalf; and, if your Lordship pleases, I shall bring my case before Parliament, although from its peculiar circumstances I do confidently hope your Lordship will give such examination to it as will prevent to myself and my family any further expense or trouble on the subject.

I have, &c..

RICHARD LINCH.

[Sub-enclosure No. 1.]

MEMORIAL OF MR. R. LINCH.

Pitt Street, Sydney,

23 December, 1833.

MAY it please your Excellency,

I humbly Solicit that your Excellency will order an Examination into the Merits of my Claim, and the facts and circumstances which sustain it, for a Grant of Land, namely of that Portion on the South Head Road, hitherto applied for by me, which adjoins Mrs. Raine's farm.

Your Excellency will be pleased to find that I lodged in the Colonial Office, on my landing here in 1828, a letter from the Home Government to the Governor here in substance, directing me to have a Grant of Land here or in Van Diemen's Land. I was confined by dangerous illness to my bed for several months, preventing me complying with the exact technical forms of the then Land Board, nor was I able so to do until the Government Regulations now in force came out.

Nevertheless Your Excellency can be satisfied that I complied with the Substance and material facts directed by them to entitle me to the Grant, namely,

first, residence in the Colony.

second, tendering to the Government here two solvent sureties, whom now again, with your Excellency's leave, I beg now again most humbly to propose on my behalf, Mr. Kerr the Barrister, and Mr. Betts the Merchant.

Thirdly, Capital to the extent required; and, if I had not relied upon my Grant here, I would have sought for it at Van Dieman's Land.

Your Excellency will be also pleased to find, on reference to the Colonial Secretary here, that Mr. Condomine's letter to me, written by order of His Excellency the then Governor (the original of which I also lodged), recognizes my right and admits the authority which grounds it.

I also beg most humbly to represent to your Excellency that, from the period of my health being restored, I have repeatedly applied to the Colonial Secretary but without effect for my said Grant.

I therefore most humbly but most earnestly pray your Excellency to grant me such relief in the premises as to Your Excellency shall seem meet. And your Memorialist and his family will ever feel indebted to your Excellency.

[Unsigned.]

Memorial
of R. Linch
soliciting land
grant near
Sydney.

[Sub-enclosure No. 2.]

1835.
2 July.

MR. R. LINCH TO MR. G. K. HOLDEN.

Sir,

Pitt Street, 2nd January, 1834.

I respectfully beg leave to acknowledge your written answer, dated 31st Ultio, yesterday, received on my memorial of the 23rd Ultimo then returned by you to me, in substance acquainting me that, "under the existing Regulations for the disposing of Land, His Excellency the Governor is prevented from complying with my request."

Reply by
R. Linch
to refusal of
application.

I took the liberty of stating in my memorial that I had brought out to the Government here a letter from the Home Government on the Subject of my grant; Such letter was acted on by me in leaving England.

I also shewed to His Excellency that the letter was as well an Authority for my getting Land in Van Dieman's Land as here, if I should not obtain it here; and I took the liberty of also stating that my claim was acknowledged by the private Secretary of His Excellency the then Governor, and that, whilst I complied with all the substantial requisites then asked of me, I was only debarred from attention to whatever formal requisites might have been desired by confinement to my bed which continued until the existing Regulations came out.

As His Excellency the Governor cannot assist me in my present peculiar situation, I request you will be so good as to inform me how I am to act in the matter; also that you will be good enough to favor me with my papers lodged with the Colonial Secretary, to whom, as I also took the liberty of stating, I have myself applied repeatedly without effect in procuring them.

I beseech, Sir, the favor of your consideration of my hard case and that you will assist me with your Council. I have applied to the Secretary of the Commissioners Claims Lands, but he informs me that cases such as mine are not cognizable by that Board.

I have, &c.,

[*Unsigned.*]

LORD GLENELG TO SIR RICHARD BOURKE.

(Despatch No. 14, per ship Mary Ann.)

Sir,

Downing Street, 3d July, 1835.

3 July.

I have had under my consideration your Dispatch, No. 86 of the 12th of September last, enclosing a representation from Mr. Allman, the Police Magistrate at Goulburn's Plains, on the subject of certain pecuniary claims on His Majesty's Government.

Despatch
acknowledged.

His first claim is on account of a reduction, which was made in the Salary attached to the Office of Commandant at Newcastle, at the period when he succeeded to that appointment. Whatever disappointment Mr. Allman may have experienced on that occasion appears to have arisen from a neglect on his part to make himself acquainted with the value of the Office, which he accepted, and that circumstance cannot reasonably be considered to constitute a claim on the Government.

Claim by
F. Allman
re salary at
Newcastle.

1835.

3 July.Refusal of
further claims
by F. Allman.

His next claim is to compensation for the loss of his baggage by Shipwreck, when proceeding to assume the command at Port Macquarie. Unfortunate as that circumstance was, it is not usual in the Colonial service to make good such losses. He also claims £362 as a reward for his management of Convicts at Port Macquarie, but he has failed in producing any proof of the validity of that claim; nor do I conceive that it would be possible, at this distance of time, to enter into a consideration of it.

His claim to £100 for the importation and culture of Sugar Canes is also inadmissible, nor can I sanction his receiving any allowance for the expense of his passage from Sydney to Newcastle. And however much I regret the failure in Mr. Allman's prospects on entering the Colonial Service, it is wholly out of my power to admit any one of the claims which he has brought forward.

I am, &c.,

GLENELG.

 LORD GLENELG TO SIR RICHARD BOURKE.

(Despatch No. 15, per ship Mary Ann.)

Sir,

Downing Street, 3d July, 1835.

I have received your Dispatch No. 88 of the 14th of September last, enclosing a Memorial from Mr. Archibald Macleod, the Superintendent of Agriculture at Norfolk Island, praying that he may receive a Grant of Land under the terms of the late Regulations.

The high testimony, which you have borne to the Merits of Mr. Macleod as a Public Officer, would have made me desirous of complying with his application, had it been possible to do so; but the necessity of adhering strictly to the Regulations which are now in force is such, as to place it quite out of my power to authorise his receiving the Grant which he solicits.

I am, &c.,

GLENELG.

 LORD GLENELG TO SIR RICHARD BOURKE.

(Despatch No. 16, per ship Mary Ann.)

Sir,

Downing Street, 4th July, 1835.

I have the honor to acknowledge the receipt of your Despatches No. 128 of the 27th December and No. 7 of the 27th January last, with which you have transmitted the Half-yearly Reports of the Superintendent of the Sydney Botanic Garden for the year 1834.

4 July.

Despatches
acknowledged.

1835.

4 July.

Refusal of
applications
from
H. Dumaresq
and Lethbridge.

Navy either to emigrate to the Australian Colonies, or, being on the spot, to quit their Professions for the purpose of becoming permanent Settlers. As both the Gentlemen in question had already received Grants, they can only be considered in the light of Settlers established in the Colony, and, therefore, to them no such indulgence can be extended. I should have conceived that Sir G. Murray's Instruction would have placed this point beyond doubt.

I am, &c.,

GLENELG.

LORD GLENELG TO SIR RICHARD BOURKE.

(Despatch No. 20, per ship *Mary Ann*; acknowledged by Sir Richard Bourke, 20th February, 1836.)

7 July.

Sir,

Downing Street, 7th July, 1835.

Pardons
proposed for
J. Loveless and
four convicts
per ship *Surry*.

With reference to my Dispatch* of the 12th Ultimo, relative to the five Persons who were convicted at Dorchester in March, 1834, of administering unlawful Oaths and transported to New South Wales in the "*Surrey*," I now transmit to you a copy of a Letter which has been received from the Home Department, stating that a doubt has occurred to Lord John Russell that the course at first proposed to be pursued with regard to the issue of the Pardons to those Convicts cannot, in consequence of the provisions of the Act of the 2d and 3d W. 4, Cap. 62, be legally acted upon by you. I have, therefore, to desire that, in accordance with the suggestion of the Secretary of State for the Home Department, you will take care to make an early report of the Conduct of the Convicts, in order that His Majesty's Gracious intention of extending mercy to them may be carried into effect under the Royal Sign Manual, if their behaviour should be found to have been satisfactory. In the mean time you will accord to them all the benefits intended to be conveyed to them by my Dispatch of the 12th Ultimo, so that, upon the receipt of that Dispatch, James Loveless, if he shall have behaved well, will have the full benefit of a Conditional pardon, and the other four Prisoners, if their Conduct has been good, will have a like conditional Pardon, and after two years from the date of their arrival in the Colony will have free and unconditional Pardons.

I am, &c.,

GLENELG.

Transportation
of G. Loveless
to Tasmania.

P.S.—It may be proper to add that George Loveless, the other Convict alluded to in the enclosed Letter from the Home Department, was transported to Van Diemen's Land.

* Note 2.

[Enclosure.]

1835.
7 July.

MR. JOHN PHILLIPPS TO UNDER SECRETARY HAY.

Sir,

Whitehall, 29th June, 1835.

With reference to my Letter to you of the 9th instant, relative to the Six Persons who were convicted at Dorchester in March, 1834, of administering unlawful Oaths, I am directed to acquaint you for the information of Lord Glenelg, that it has occurred to Lord John Russell that the course, therein proposed to be pursued with regard to the issue of their pardons, cannot, in consequence of the Provisions of the Act of the 2 and 3 W. 4, C. 62, be legally acted upon by the Governors of the Australian Colonies. I am, therefore, to desire that you will move Lord Glenelg to call upon those Officers to make an early report upon the Conduct of the Convicts, in order that His Majesty's Gracious intention of extending mercy to them may be carried into effect under the Royal Sign Manual, if their behaviour should be found to have been satisfactory. In the mean time, Lord John Russell is desirous that they should receive all the benefits intended to be granted to them, as expressed in my Letter to you of the 9th Instant, so that, upon the receipt in the Colonies of the directions from the Colonial Department, George and James Loveless, if they have behaved well, will have the full benefit of Conditional Pardons, and the other four prisoners, if their conduct has been good, will have a like Conditional Pardon, and after two years from the date of their arrival in the Colony will have free and unconditional Pardons.

Pardons proposed for convicts per ship *Surry*.

I am, &c.,

JNO. PHILLIPPS.

LORD GLENELG TO SIR RICHARD BOURKE.

(Despatch marked "Private and Separate," per ship *Mary Ann*, acknowledged by Sir Richard Bourke, 20th February, 1836.)

Sir,

Downing Street, 7th July, 1835.

With reference to my Dispatch of this day's date, relative to the Pardons which it is intended to grant under certain conditions to the Convicts transported to New South Wales from Dorchester for administering unlawful Oaths, I think it right to apprise you, without reserve, that, although the mode which has been adopted in granting these Pardons has been considered the one least open to objection, His Majesty's Government are fully aware that the real difficulty raised by the Act 2 and 3 Wil. 4, C. 62, has been but imperfectly met. There is no doubt that the Prisoners are wholly excluded by the terms of that Act from receiving any indulgence whatever, until after the expiration of four years from the period of their transportation except by virtue of a Warrant under the Royal Sign Manual; but it has not been thought advisable to issue a direct pardon in that form, until it shall appear that those persons have so conducted themselves, since their arrival in the Colony, as to shew, that they are fit objects of Mercy.

Difficulties re granting of indulgences to J. Loveless and others.

1835.
7 July.

Difficulties *re*
granting of
indulgences to
J. Loveless
and others.

I, therefore, do not conceal from myself, that I impose upon you a duty which may possibly be in some degree at variance with the terms of the Statute to which I have referred. Convinced, however, as His Majesty's Government are, that such a case as that to which this Correspondence refers was not contemplated by the Authors of that Statute, and that the Letter of the Law is, from a most improbable combination of circumstances opposed to the claims of Justice, humanity, and sound Policy, I have not scrupled to sanction the measures directed in my Public Dispatch of this date.

I trust, however, that it may be in your power to accomplish the immediate release of these Prisoners from Penal Labour without involving yourself and the Government in a responsibility, which, it must be confessed, is not to be lightly undertaken.

I am, &c.,

GLENELG.

UNDER SECRETARY HAY TO SIR RICHARD BOURKE.

(Despatch per ship *Mary Ann*.)

Sir,

Downing Street, 7th July, 1835.

An Application has been received from Lord Molyneux in favor of Mr. Thomas Tilstone, who it is understood holds some small appointment at Norfolk Island, and who is desirous to be removed to some other station; and Lord Glenelg feels disposed to recommend a compliance with that Application, if you should consider that Mr. Tylstone is deserving of the indulgence which is solicited, and can be usefully employed elsewhere.

I am, &c.,

R. W. HAY.

LORD GLENELG TO SIR RICHARD BOURKE.

(Despatch No. 21, delivered by Mr. Kinnear.)

Sir,

Downing Street, 9th July, 1835.

I transmit to you herewith copies of certain Communications, which have been received at this Department from the Board of Treasury on the subject of the Banking Establishments of the Australian Colonies, and particularly with reference to the formation of a new Chartered Banking Company for the establishment of Banks of issue and deposit, and for carrying on Banking transactions within certain prescribed limits embracing the Territory of New Holland and the Island of Van Diemen's Land, with the powers usually vested in Corporate Bodies.

You will perceive that the Lords Commissioners of the Treasury consider it advisable, as a condition of the employment of the Colonial Banks as depositories of Public Money, and in

9 July.

Transmission
of papers *re*
banks.

T. Tilstone to
be removed
from Norfolk
island.

transactions connected with the business of the Colonial Treasury or the Military Chest, that periodical Balance Sheets should be made out and submitted to you in such manner as to afford full information respecting their Assets and liabilities, and that half yearly abstracts of their transactions, similar to those specified in the enclosed Extract of a Communication from the Secretary to the Treasury, dated the 23rd of November, 1833, relative to the Bank at New Brunswick, should be furnished by the Banks, and should be made Public by insertion in one or more of the Colonial Newspapers. This arrangement will supersede the necessity for the appointment of a Government officer to any share in the direction of the Banks. I have, therefore, to desire that you will without loss of time communicate to the Banks already in existence these Regulations, and require from them a compliance with them, as a condition necessary to the continuance in their hands of Government Deposits; and you will cause the same Regulations to be adopted by the Banking Establishments of the New Company when they shall have been opened in the Colony.

1835.
9 July.
Conditions imposed on banks holding government deposits.

The enclosed correspondence from the Treasury, together with the annexed copy of the Charter,* granted by His Majesty under the Great Seal of the United Kingdom to this Body, under the title of the Company of the Bank of Australasia, will place you in possession of all the details connected with the formation of the Company; and I have only further to request that you will take such measures as may be necessary on your part for giving full effect to His Majesty's intentions in granting the Charter.

Formation of bank of Australasia.

I am, &c.,

GLENELG.

[Enclosure No. 1.]

HON. J. STEWART TO UNDER SECRETARY HAY.

Sir,

Treasury Chambers, 1 Novr., 1833.

I am commanded by the Lords Commissioners of His Majesty's Treasury to transmit herewith the Copy of a Memorial. Mr. Edward Blount and others, praying the grant of a Charter for constituting a Company for the Establishment of Banks of Issue and Deposit at the Colonies of Australia and South Africa: and I am to request that, in submitting the same to Mr. Secretary Stanley, you will state that it has appeared to my Lords, upon considering the said Memorial and upon communicating with the Lords of the Committee of Privy Council for Trade thereon, that it will be advisable that a Charter should be granted as prayed for, constituting a Company for the Establishment of Banks of Issue and Deposit and to carry on Banking Transactions in the Australian Colonies, with the powers usually granted to Corporate Bodies; but, adverting to the nature of the banking Establishments of the Colonial Government at the Cape of Good Hope. My Lords do not deem it expedient that the Charter should at present extend to that Colony.

Application for charter for bank of Australasia.

Charter recommended for bank in Australian colonies only.

* Note 3.

1835.

9 July.

Conditions to be inserted in charter.

Capital to be subscribed.

Limitation on debts and engagements.

Issue of notes or bills.

Charter to be void on suspension of payment in specie on demand.

Liability of shareholders.

Advances prohibited on security of shares.

Discount of paper for directors or officers.

Advances prohibited on real estate.

Scope of bank's activities.

Dividends.

My Lords also consider it necessary, with a view to the security of the Public, that any such Charter of Incorporation, in addition to the requisite provisions for the government and conduct of the business of the Company, should comprize, and should provide for and be contingent upon the observance of the following conditions and regulations, viz.:

1st. The Capital, to the extent and number of shares proposed in the Memorial, to be paid up as therein specified, but the Bank not to commence business until the whole of the Shares constituting the Capital of £300,000 shall have been subscribed, and a moiety at least of the subscriptions paid up; and, if the whole of the said Shares are not subscribed for within eighteen months from the date of the Charter, the same shall be void. 2nd. The Debts and Engagements of the Company upon Promissary Notes, Bills or otherwise shall at no time exceed treble the amount of the Capital actually paid up, with the addition of such further Sum as may be equivalent to the amount of specie and Government Notes or Bills lodged in the Establishments of the Bank by Depositors. 3rd. The Notes or Bills, issued by the Establishments of the Company within the several Colonies to which the Charter may extend, shall bear date from the place at which they are issued, whether such issue may be made from the principal Establishment at the Seat of the Colonial Government or from Branch Establishments at other Stations within the Colony; and such Notes shall in all cases be payable in specie on demand at the place of date and issue, and at any of the Company's other Establishments they may see fit to appoint.

4th. If any suspension of payment in specie on demand at the Colonial Stations of date and issue beforementioned, or at any other Station at which the Notes may purport to be payable, shall continue for sixty days successively or for sixty days at intervals within any one year, the Charter shall be forfeited and void, save as to the liability of the subscribers, and the reservation of the Company of the requisite powers for the collection and payment of Debts and adjustment of Accounts.

5th. That the sum, to which the personal responsibility of the respective Shareholders may be limited, shall not be less than twice the amount of the Shares subscribed for.

6th. The Company shall not purchase or hold its own stock, nor make any Loan or advance any Money to Shareholders on security of their Shares.

7th. The Amount of Paper discounted, on which the Names of any Directors or Officers of the Bank shall appear as Drawers, Acceptors or Endorsers, shall not exceed one third part of the whole Discounts of the Establishment within the same Colony.

8th. The Funds of the Company shall not be employed in Loans or Advances upon security of Land or other Property of that description, neither shall the Company hold Lands or Houses except for the purposes of their Business. The Company shall not deal or trade directly or indirectly in buying or selling any Goods, Wares, Merchandize or Commodities, except so far as may be necessary for disposing of any Goods seized in satisfaction of Debt; but their transactions shall be confined to what are understood to be the legitimate operations of Banking Establishments, viz., Advance on Commercial Papers or Government Securities, and general dealings in Money, Bills of Exchange and Bullion. 9th. No Dividend shall be made to the Shareholders out of any other

Funds than the surplus profits accruing periodically from the Transactions of the Company and not from the Capital of the Company or Estate belonging thereto. 10th. The Company may issue and Circulate Notes for £1, £2, £5 and upwards, but not for any fractional parts of a Pound Sterling; The Notes of the Company are to be Hable to any Stamp Duties payable in the Colony, where they may be issued and bear date. 11th. The Officers of the Company's Establishments in the Colonies shall be bound to make up and forward to the principal Establishment in London Weekly Statements shewing the following particulars of the transactions in each respective Colony, viz., The amount of Notes and other Engagements issued and outstanding at the close of each week, and at the same period the amount of Specie in hand.

1835.
9 July.

Issue of notes
by bank.

Weekly
statements to
be transmitted
to head office
in London.

The amount of Government Bills or Paper in hand.

The amount of Bills, Notes of hand, or other available Assets and Property of the Company within the Colony. The amount of Deposits for which the Company is responsible to the Depositors, distinguishing any amount of such Deposits upon which the Company may allow Interest to the Depositors, and the amount upon which no Interest is allowed and specifying the rate or rates of such Interest. At the close of each half year, the Principal Officers of the Company in each Colony shall make out a statement from these weekly returns, shewing the average amount of the liability and Assets of the Establishment in the Colony under each of the specified heads for the half year.

Half-yearly
balance-sheet
for publication
in colony;

This Statement shall be submitted to the Governor of the Colony, and shall be verified on Oath by the Officer, if the Governor thinks fit to require such verification; and he shall cause the same to be inserted in one or more of the Gazettes or Public Newspapers, published in the Colony for the general information of the Inhabitants. 12th. As soon after the close of each half year as the receipt of Accounts from the Colonies will enable them to do so, a Statement shall be prepared by the Officers of the Company in London showing the aggregate average amount of the liabilities and Assets of the Company, deduced from the weekly transactions of all its Establishments; this Statement shall be authenticated by the signatures of the presiding Director, and of the principal Cashier or Accountant in London, and shall be submitted for the information of the Secretary of State and the Lords of the Treasury, and shall be published in the London Gazette; and, if required so to do, the Company shall submit for the inspection of the Secretary of State or the Lords Commissioners of the Treasury, or of such Officers as they may appoint for that purpose, the several Colonial Weekly returns upon which such statement is founded. My Lords request to be favoured with Mr. Stanley's opinion with respect to the grant of a Charter, and to the conditions they propose to insert therein; and, if he should approve of the measures they have suggested, they will communicate the decision of His Majesty's Government to the Memorialists and will apprise Mr. Stanley of the Arrangements they may finally make with them in order to the proper steps being taken for obtaining His Majesty's Warrant for granting the Charter, and that any necessary Instructions may be forwarded to the Governor of the Settlements, to which the Charter may extend, for giving full effect to the Intentions with which it is granted.

and for
publication in
London Gazette.

I am, &c.,

J. STEWART.

[Sub-enclosure.]

1835.
9 July.

To the Right Honorable The Lords Commrs. of His Majesty's
Treasury.

Memorial
soliciting
charter for
royal bank of
Australasia and
South Africa.

THE Humble Memorial of the Right Honorable Henry Ellis, Captain Sir Andrew Pellet Green, R.N. Knight Commander of Hanover, Edward Blount, Jacob Montefiore, Richard Norman, William Alexander Mackinnon, John Studholm Brownrigg, Oliver Farrer, Charles Barry Baldwin, John Wright, Thomas Potter Macqueen, Samuel Eustace Morgan, Matthew Boulton Rennie and Walter Stuart Davidson, Esquires, Sheweth.

That the flourishing and prosperous state of His Majesty's several Colonies and Settlements in Australasia and its Dependencies and in the Southern parts of Africa having attracted the notice and engaged the attention of your Lordships' Memorialists and other Capitalists as well in these Colonies and Settlements as in Great Britain, Your Memorialists have applied their minds to the consideration of the best means of developing and rendering more available the various sources of Improvement and prosperity, which your Memorialists have reason to believe abound in the Colonies and Settlements in question, and of improving the advantages which may be expected to be derived from an extension of their Trade and Commerce and Agriculture.

That the great inconvenience, which has been experienced in the transaction of Mercantile Affairs in these Colonies from the want of some approved and uniform circulating medium, and which has hitherto tended very much to confine the extent and lessen the advantages of their Commercial and Agricultural Speculations, had suggested to your Memorialists the propriety and expediency of devising some place for facilitating and rendering more secure the money transaction and remittances of the Colonists.

That among the various means, which have suggested themselves as likely to effectuate the desirable object which they have in view, none have occurred to them which appear better calculated for its attainment than the formation at convenient situations within the said Colonies and settlements of Banking Establishments with sufficient Capital for the issue and circulation of Notes and the other useful purposes of Banking, to be conducted and managed upon principles similar to those adopted for the regulation of the Provincial Banks, recently established in England, Scotland, and Ireland, and which, as your Memorialists believe, have been found very advantageous to the Trade and Commerce of the United Kingdom.

That, inasmuch as the Establishment of such Banks would require more ample Capital and involve a greater degree of risk and responsibility than any small number of Individuals might be able to command or be disposed to incur, Your Memorialists and numerous other Capitalists connected with the Commercial Interests of the above-mentioned Colonies and Settlements have proposed and agreed to subscribe a Capital of £300,000 in 6,000 shares of £50 each for the purpose of establishing and carrying on such Banks in various places within the Colonies of Australia and Van Diemen's Land and at the Cape of Good Hope, and elsewhere in the Southern parts of Africa, provided His Majesty shall for that purpose be graciously pleased by His Royal Charter to constitute and declare them to be a Body Politic and Corporate by the name

and with the privileges herein after mentioned; Capital consisting of the above mentioned shares to be paid up as follows, viz.: £10 per share immediately; £10 in six months from the first payment; £10 in twelve months; £10 in 18 months; and the remaining £10 of each share in 24 Months.

That the management of the Company's affairs to be under the control of a Court of Directors in London, who shall have power to nominate to each Bank in the Colonies local Directors from the resident Proprietors for managing the affairs of each Bank.

That the following shall be the first London Directors, viz.: The Right Honorable Henry Ellis, Captain Sir Andrew Pellet Green, R.N. Knight Commander of Hanover, Edward Blount, Jacob Montefiore, Richard Norman, William Alexander Mackinnon, John Studholm Brownrigg, Oliver Farrer, Charles Barry Baldwin, John Wright, Thomas Potter Macqueen, Samuel Eustace Morgan, Matthew Boulton Rennie, and Walter Stuart Davidson.

Your Memorialists therefore humbly pray your Lordships that Your Lordships will be pleased to submit the Memorial to His Majesty's Gracious consideration and to advise his Majesty that it will be expedient to grant to your Memorialists and the other subscribers of the said Capital of £300,000 His Majesty's Royal Charter under the Great Seal of Great Britain, and thereby to declare and grant that Your Memorialists, and such other persons as shall be named therein, and all and every such other persons or person as shall from time to time be duly admitted Members into their Corporation, shall be a Body Politic and Corporate by the name of the "The Royal Bank of Australasia and South Africa," and by that name shall have perpetual succession and a Common Seal, and by that name shall and may sue and be sued and plead and be impleaded at Law and in Equity, and to declare that the said Corporation so to be made and created is established for the purpose of forming Banks at any places within Australasia and its Dependencies and in the Southern parts of Africa, which may from time to time be fixed upon and be considered by your Memorialists as more eligible and convenient for that purpose; and that it shall and may be lawful for the said Corporation to carry on the business of Bankers in such several places, and for that purpose to make and issue Bank Notes or Bills payable on demand or otherwise, and to borrow, owe or take up any sum or sums of Money on the same, or on Receipt, Bills, Promissory notes or other Obligations, also to lend monies on Cash Accounts, Bills of Exchange or Letters of Credit, or on Bonds, Judgments or other personal Security, or on pledges of any kind whatsoever; also to keep the Money or Cash of any person or persons, Body Politic or Corporate whatsoever; and also to deal in money or in Notes, Bills or other securities for Money, and generally to transact all such other Business as it shall or may at any time hereafter be lawful for Establishments for carrying on Banking in all its branches, or dealing in Money, or in Notes, Bills or other Securities for Money, to do or transact. But, under and subject nevertheless to the provisions next hereinafter particularly mentioned, if the same shall be approved by Your Lordships (viz.), The said Corporation to issue and reissue from time to time and circulate notes of £1, £2 and £5 or upwards, but not for any smaller or other sums, or for any fractional part of a pound: All notes issued by the said Corporation to be dated from and made payable at the following places only and not elsewhere,

1835.
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Memorial
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royal bank of
Australasia and
South Africa.

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soliciting
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royal bank of
Australasia and
South Africa.

vizt.: All notes, issued in that part of Australasia called or known by the name of Australia, to be dated from Sydney and made payable there; All Notes issued in Van Dieman's Land to be dated from Hobart Town, and made payable there; and all notes issued in any part of Africa to be dated from Cape Town and made payable there. A Stock of coined Gold and Silver to the Amount of £——— at the least of the Amount of the Notes, which shall be issued by the said Corporation from either of the above named Towns or places, and which for the time being shall be in actual circulation, shall be constantly kept in the Bank to be established by the said Corporation at such place; The Principal Clerk or Manager for the time being of the Affairs of the said Corporation at each of the above named Towns to make and deliver to the Governor for the time being of the Colony or Settlement, in which such Town is situate, a Return upon Oath of the full Amount of Notes issued by the said Corporation from such Town and then in actual circulation, and also of the amount of coined Gold and Silver then in the Bank of the said Corporation at such Town, when and as often as thereunto required by such Governor, and also under and subject to such other (if any) conditions, provisions, restrictions and limitations, as His Majesty by such his Charter may be pleased to impose, direct or prescribe; and also by such Charter to declare and provide that it shall be lawful for the said Corporation, at any time after the whole of the said original Capital or Sum of £300,000 shall have been fully paid up, to increase the amount of their Capital to any sum not exceeding, together with the amount of such original Capital, the sum of £600,000 by the sale of further shares of £50 each, provided that the amount of such additional Capital be fully paid up within two years from the original subscription thereof; and that an option be in the first instance given to each holder for the time being of any share or Shares in the Original Capital of subscribing towards such additional Capital the amount or in proportion to the amount (as the case may be) of such holder's share in the original Capital. And also by the said Charter to declare and provide that it shall be lawful for the said Corporation, by any Deed or Instrument in writing to be made and executed between and by the subscribers of the Capital of the said Corporation, to nominate and appoint Directors or Governors and Trustees and other Officers to conduct and manage the affairs and Concerns of the said Corporation, and to make and ordain Rules and Bye Laws for the regulation and control of the said Corporation and its affairs and officers, with power from time to time to alter and vary the same or any of them in such manner and under such restrictions as may be thereby agreed upon, so as such Rules, Bye Laws and Regulations or any of them be not inconsistent or incompatible with the provisions, restrictions, conditions and limitations to be imposed or prescribed by the said Charter or any of them; and also by such Charter to declare and provide that it shall be lawful for the said Corporation to hold to them and their successors such Lands, Tenements and Hereditaments, both in England and in all or any or either of the above mentioned Colonies or Settlements, as shall or may be contracted for and purchased, or acquired by them; and to hold, alienate, sell and dispose of the same, provided that the said Corporation shall not at any time hold any Lands, Tenements or Hereditaments in England, exceeding in value the Sum of £——— per annum; And also by the same Charter to declare and provide that the members of the said Corporation shall be individually and

respectively liable and responsible for the affairs, Concerns and Engagements of the Banks, so to be established as aforesaid, to the extent and amount only of their respective Individual subscriptions to and shares in the said Capital sum of £300,000, and in such further future shares and Capital, as aforesaid respectively, when and after such subscriptions respectively shall have been fully paid up and not further or otherwise.

And Your Memorialists will ever pray, etc.,

EDWARD BLOUNT, Chairman.

No. 5 Henrietta Street, Covent Garden, London, 18th May, 1833.

[Sub-enclosure No. 2.]

1835.
9 July.

Memorial
soliciting
charter for
royal bank of
Australasia and
South Africa.

EXTRACT of a Letter* from the Honble. J. Stewart to R. W. Hay,
Esqr., dated Treasury Chambers,

23d November, 1833.

THERE shall be prepared and recorded in the Books of the Bank a Weekly Balance Sheet or Statement, exhibiting the state of the liabilities and assets of the Bank of every description, at the close of each Week, under the following heads, with any requisite additions.

Proposed
details for
weekly
statements :

Bills and Notes in Circulation, not bearing Interest.

Bills and Notes in Circulation, bearing Interest.

Balances due to other Banks. Cash deposited with the Bank, including all Sums due from the Bank not bearing Interest (its Bills in Circulation and Balances due to other Banks excepted).

Cash deposited bearing Interest.

Total Amount due from the Bank.

The Gold, Silver and other Coined Metals in the Banking House.

Real Estate of the Bank.

Bills of other Banks.

Balances due from other Banks.

Amount of all Debts due to the Bank, including Notes, Bills of Exchange and all Stock and Funded Debts of every description, excepting the Balances due from other Banks.

Total Amount of the Resources of the Bank.

From these Weekly Statements, there shall be prepared immediately after the close of each half year a general abstract shewing the average Amount of the Liabilities and assets of the Corporation, under the specified heads, for such half yearly period; to which average abstract shall be subjoined a statement of the Amount of Capital Stock paid up at the close of the half year, of the rate and Amount of the last Dividend that may have been declared to the Shareholders, and of the Amount of reserved profits at the time of declaring such Dividend. Copies of this half yearly Statement, signed by the presiding Director and by the Chief Cashier, a Clerk of the Bank, shall be laid before the Lieutt. Governor of the Province and before the Legislative Council and the House of Assembly; and the above mentioned Officers of the Bank shall verify the same on Oath, if required so to do by either of those Authorities; and this Statement shall also be published in one or more of the Gazettes or Newspapers circulating in the Province. The Bank shall further be bound, at the requisition of the Lieutt. Governor, to exhibit to him or to such Officers as he may appoint, as confidential Documents, the Weekly Balance Sheets upon which such past half yearly Statement may have been founded, or for any subsequent and current period.

and for half-
yearly balance-
sheet.

Weekly
statements to
be submitted
confidentially to
lieut.-governor.

* Note 4.

1835.
9 July.

[Enclosure No. 2.]

HON. J. STEWART TO UNDER SECRETARY LEFEVRE.

Sir,

Treasury Chambers, 25th July, 1834.

Proposed
instructions to
G. Arthur
re banks in
Tasmania.

The Lords Commissioners of His Majesty's Treasury had under their consideration your letter of the 28th Ultio. relative to the Instructions it will be proper to convey to Colonel Arthur in regard to the Banking Establishments at Van Diemen's Land; I am commanded by their Lordships to request that you will state to Mr. Secretary Rice, with reference to Mr. Hay's Communication of the 13th of December last, that, adverting to the conditions that have been exacted from the Applicants for Charters for Banking Companies in Upper Canada, in the Australian Colonies, and in New Brunswick, My Lords would have been disposed to insist on the observance of similar conditions by any Banking Establishments in the Colonies, to which it might be proposed to entrust the Public Money.

As, however, propositions to that effect had already been made to the Banks established at Hobart Town under the Titles of the Bank of Van Diemen's Land and the Derwent Bank, in consequence of Instructions transmitted to the Lieutenant Governor of Van Diemen's Land before those conditions had been fully decided upon, and as those Banks appear to have been hitherto managed and conducted with due caution and upon safe principles, My Lords conceive it only necessary to stipulate as a condition of their employment as Depositories of Public Money, and in transactions connected with the business of the Colonial Treasury or of the Military Chest, that the periodical balance Sheets, which the Banks have already engaged to submit to the Lieutt. Governor, should be made out in such manner as to afford full information respecting their assets and Liabilities, and that half yearly Abstracts of their Transactions, similar to the Abstracts provided for in the Communication to Mr. Hay of the 23rd of November last relative to the chartered Bank at New Brunswick, shall be furnished by the Banks and shall be made public by insertion in one or more of the Colonial Newspapers. At the same time, My Lords must express their decided disapprobation of any power being reserved to or exercised by the Local Govt. with respect to the appointment of Directors as being uncalled for, provided the state of the Banks is from time to time made known, and as tending to implicate the Govt. in, and render it in some measure responsible for, the general transactions of the Bank.

Objections to
government
nominee on
board of
directors.

My Lords would accordingly suggest that a communication should be made to the Lt. Govr. of Van Diemen's Land sanctioning the steps he has reported to have taken with respect to the employment of the Banks; but instructing him to require from those Establishments a compliance with the regulation, before mentioned in regard to the publicity of their transactions, as the condition of the continuance of the Govt. Deposits in their hands. I am also directed to state that, upon being apprized of Mr. Spring Rice's concurrence in this arrangement, and subject to the compliance of the Banks with the proposed condition, My Lords will be further prepared to sanction their employment for the transaction of the business of the Military Chest and to authorize the deposit with them of the funds appertaining to that Chest. I am further to request that you will observe to Mr. Rice that, when the Australian chartered Banking Company shall have opened an Establishment

Conditions
imposed on
banks holding
government
deposits.

in New South Wales, My Lords conceive it will be proper to require from the existing Banks in that Colony also a compliance with similar regulations as to publicity of periodical statements of their affairs, as a condition of their continuing to be employed in the transactions of the Local Treasury, or of the Military Chest, and as the depositaries of any balances of public Money.

1835.
9 July.

I am, &c.,
J. STEWART.

[Enclosure No. 3.]

HON. J. STEWART TO UNDER SECRETARY HAY.

Sir, Treasury Chambers, 30 August, 1834.

I am commanded by the Lords Commissioners of His Majesty's Treasury to transmit herewith, for the information of Mr. Secretary Rice, with reference to the Letter of this Board of the 17 of March last. Copies of the Minutes of the Board of the 29 Ultimo and of the 19th and 26th Instant relative to the Charter for the Establishment of Banks in the Australian Settlements.

Transmission
of treasury
minutes.

I am, &c.,
J. STEWART.

[Sub-enclosure No. 1.]

COPY OF TREASURY MINUTE OF 29TH JULY, 1834.

READ Report from the Solicitor, dated 12 Inst., transmitting the Draft of a Warrant for a Charter for the Establishment of a Banking Company at Australia.

Consideration
of draft of
charter for
bank of
Australasia.

My Lords resume the consideration of the proceedings relating to this Charter, and of the Conditions upon which the Applicants for it were informed it should be granted.

Write to the Solicitor returning the Draft Charter, and acquainting him that my Lords have considered the same, and with reference to the remarks of Mr. Ker at folios 6, 7, 9, 11, 15, 20, 21 and 22, to which their Attention has been called by the Solicitor, and to certain of the Provisions it contains they are pleased to communicate to him the following observations and Directions for his further guidance. Fol. 6. It is My Lords Intention that the Company should be empowered to place its Establishments in any British Settlements that have been already formed, or that may hereafter be formed in any part of the Territories commonly called New Holland and Van Diemen's Land, and the smaller Islands adjacent thereto situate and comprised between the 110 and 155 of Longitude east of Greenwich, and between the 10th and 45th Degree of South Latitude or in any Dependencies on the respective Government of those Settlements. Fol. 7. My Lords do not object to the extension, provided for in the Draft, of the period for paying up a portion of the Capital, not exceeding the sum of £5,000 upon the grounds adverted to in the Solicitor's Letter. Fol. 9. My Lords are willing to permit any Government Bills deposited with the Banks to be taken into account for the purpose of this Proviso as equivalent to Specie; and, should any circumstances occasion Notes of the Bank of England to be received from Depositors at the Company's Establishments in the Colonies, My Lords would not object to these Notes being likewise considered as equivalent to specie for the same purpose. Fol. 11. With reference to the Provision in the Draft Charter empowering the Bank to lend Money on Pledges of any kind whatsoever, of any Goods, Wares, Merchandize or other effects, and to the remarks of Mr. Ker in this and the succeeding Folio on

Geographical
limits for
operations
of bank.

Extension of
period for
payment of
capital.

Government
bills and notes
of bank of
England to be
equivalent to
specie.

1835.

9 July.

Provisions re
advances on
real estate or
merchandise.

the Provisions relating to Advances on and the possession of Real or Leasehold property by the Bank, My Lords have to observe that it was the Intention of the Conditions proposed to and accepted by the Applicants for the Charters to restrain the Company's Establishments, as far as might be practicable, from making advances of Money on the pledge or Security of Lands, Houses or Merchandise; but, in the event of any Commercial Bills, Promissory Notes or other negotiable Security taken by the Company not being duly honored, they must necessarily be empowered to realize the proceeds of such Goods, Lands or Property, as they might be compelled to take in execution or otherwise for the Satisfaction of Debts thus incurred, and to hold such temporary possession only of those Goods, Lands or Property as may be absolutely necessary for that purpose. My Lords accordingly desire that the terms of the Charter may be revised in this respect, and that the Solicitor will consider and consult with the Attorney General as to the most advisable means of giving effect to the intention now stated. Fol. 15. The first head of the Statement of Assets of the Banks may include Gold and Silver in Bars or Bullion as well as Coined Gold and Silver. Fol. 20. The insertion of the word *Twice* would appear to render the shareholders liable in the whole for three times the Amount of the Capital they might subscribe for, whereas it was not my Lord's intention to make them liable for more than twice that Amount in all, viz., for their subscribed Capital and for a further Sum equal to that subscribed Capital.

Bullion in
balance-sheet.

Liability of
shareholders.

With respect to the further Observations of Mr. Ker on this condition, the Solicitor will consult with the Attorney General as to the Powers that may be vested in the Crown for imposing responsibility of this description either under the act of 6 Geo. 4, Cap. 91, or by the Bill now under the consideration of the House of Commons, provided it should pass into Law, or to any other mode there may be of obtaining the same Security for Claimants on the Company in the event of Insolvency of any of its Establishments, or other forfeiture of the Charter, and for making any Judgments against the Officers, through whom the Company may sue and be sued, available against the Shareholders to the extent of their proposed liability.

Provision for
liquidation on
termination of
charter;

Fol. 21. Some Provision, as suggested by Mr. Ker, for continuing to the Company on the termination of the Charter under any Circumstances certain powers for settling all Debts and outstanding transactions, is obviously required, and the Solicitor will arrange with the Attorney General in what manner such Provision should be made. The Solicitor will further consult the Attorney General as to the most advisable mode of securing the observance by Penalty, or otherwise, of those Conditions to the infraction of which the extreme Penalty of forfeiture of the Charter and Dissolution of the Company has not been specifically attached, and will apprise My Lords of the measures it may in the Attorney General's opinion be proper to adopt in this respect. At the same time, My Lords would wish that those Regulations, with which Mr. Ker may consider it impossible that the Company should strictly comply, may be pointed out to them; and they would also desire to be apprized of the result of the Solicitor's Communications with the Attorney General in regard to the liability already adverted to of the Shareholders beyond the Amount of their respective Subscriptions.

and for
observance of
conditions of
charter.

[Sub-enclosure No. 2.]

1835.
9 July.

COPY OF TREASURY MINUTE OF 19 AUGT., 1834.

READ Letter from the Solicitor dated 14 Inst. returning the Charter of the Australian Banking Company with the Opinion of the Attorney Genl. thereon. Consideration of charter.

Acquaint the Solicitor, with reference to the Objections entertained by the Attorney General to the limitation of the proposed Charter to a Term of 21 Years, that it appears to My Lords that it would be very desirable that the Licence to the Company to issue and circulate promissory Notes should be restricted to that term. At the same time, adverting to the suggestion of the Attorney General that it would be the better course for the Parties to apply for a Charter under the recent Act* of Parliament, My Lords have to observe that, if their limitation of the Licence to issue Notes could not be provided for in a Charter granted in the ordinary manner, or if other legal Objections and Difficulties should prevent provisions being made for securing to the Shareholders in the Company the immunities it is intended they should enjoy, and for enforcing the observance of the Condition to be exacted from the Company, and if those immunities and Conditions can be secured and enforced by a Charter or Letters Patent under the New Act, My Lords see no Objection to the adoption of this course; and in such case the Solicitor will consider himself authorized to receive and make the requisite alterations in the Draft Charter with that view, consulting, as he may find it necessary, with the Attorney General thereon. Limitation of charter to term of years.

[Sub-enclosure No. 3.]

COPY OF TREASURY MINUTE OF 26 AUGT., 1834.

READ Letter from the Solicitor to this Board dated 22d Inst., in which he refers to their Lordships' Letter of 20th Inst. returning the Draft warrant for Charter to the Australian Bank, and informing him that it appeared to them that it would be very desirable that the Licence to the Company to issue and circulate promissory Notes should be restricted to the term of 21 years, and he states that he has again brought the Draft under the Consideration of the Attorney General and Mr. Ker, and returns the Draft with the further opinion of the Attorney General thereon, which Opinion is as follows, viz. :— Limitation of term of license to issue notes.

“ I do not think that there is any mode in which the power of issuing promissory Notes can be granted to the Corporation for a term of Years, and a Charter cannot be granted under the recent Act of Parliament without three Months' Notice in the Gazette; it will therefore be necessary either to grant the power in perpetuity to the Corporation, or to wait till the requisite notice has been given.” Legal opinion.

Temple, 22nd Aug., 1834.

J. CAMPBELL.

The Solicitor further states that Mr. Ker has also stated to him that, as their Lordships require that the Shareholders should be made liable to a double amount of Capital, this must be done under the provisions of the recent Act; so that at all events the Charter must wait until the parties apply under the New Act. Necessity for application under new statute.

My Lords have before them the Act of the last Session of Parliament, C. 94. to which The Attorney refers in his Opinion, and have also again before them the Memorial of Mr. Blount and others for

* Note 5.

1835.
9 July.

a Charter for the Establishment of Banks in the Australian Settlements, The Minutes of their Board of 6 Decr., 1833, and 4th March last specifying the Conditions upon which My Lords conceived such Charter should be granted, and the Letters from Mr. Blount of 8 March last stating that the Parties to the Memorial acceded to those Conditions.

Memorialists
to comply with
conditions of
banking act.

Write to Mr. Blount acquainting him, for the information of the Memorialists for the Charter before mentioned and with reference to the Letter addressed to him on the 19th March last, that, on the Draft warrant for the intended Charter being submitted to His Majesty's Attorney General, it has been found that, in order to provide for the observance of the Conditions proposed by My Lords and acceded to by the Memorialists, it will be necessary that the Company should be incorporated under the Provisions of the Act recently passed 4th and 5th W. 4, C. 94, vesting certain powers in His Majesty for purposes of this description.

This Act requires that, before any privileges are granted in pursuance of its provisions, Notice shall have been given for three Months in the Gazette of the intention to make such Grant; and My Lords therefore desire the Memorialists will communicate with the Solicitor to this Board, to whom My Lords will give Instructions in this respect, relative to the proper form of Notice, and will cause the same to be duly published. My Lords will at the same time instruct their Solicitor to take such steps in these matters as may prevent any further unavoidable delay, after the expiration of the term of Notice, in the Completion of the Charter.

Minute to be
transmitted
to solicitor;

Transmit Copy of this Minute to the Solicitor, at the same time returning to him the Draft Warrant which accompanied his Letters, and desire he will communicate with the Memorialists in order to the notice required by the Act, to which the Opinion of the Attorney General refers, being duly given, and will adopt any proceedings pending the period of Notice that the Circumstances of the case may admit of to expedite the issue of the Charter as speedily as possible after the expiration of that period.

and to
secretary
of state.

Transmit Copies of this Minute and of the Board's Minutes of 29th Ultimo and 19 Inst. on the subject of this Charter to Mr. Hay, in order that they may be submitted for the Information of Mr. Secretary Spring Rice, with reference to the Communication made to his Department on the 19th March last.

[Enclosure No. 4.]

MR. F. BARING TO UNDER SECRETARY HAY.

Sir,

Treasury Chambers, 2nd June, 1835.

Transmission
of charter of
bank of
Australasia.

With reference to Sir George Grey's letter of the 13th Sept. last, upon the subject of the employment of the Banking Establishments at Van Dieman's Land and at New South Wales for the Deposit of Public Money and in pecuniary transactions of the Public Departments, I am commanded by the Lords Commissioners of His Majesty's Treasury to transmit to you a copy of the Charter granted by His Majesty under the great Seal of the United Kingdom to the Company of the "Bank of Australasia," and to request you will submit the same to Lord Glenelg for his information with reference to the several communications made to His Lordship's Departments on the subject of it, with My Lords' request that Lord Glenelg will cause the requisite directions to be conveyed to the

Govrs. of the several colonies, to which the powers of the company extend, for giving full effect to His Majesty's intentions in granting the Charter.

1835.
9 July.

I am at the same time to request you will again call Lord Glenelg's attention to the communication from this Dept. of 25th July last, and move His Lordship, in accordance with the opinion therein expressed, that the existing Banks at New South Wales should be required, like those at Van Diemen's Land and in other Colonies, as a condition of their employment in the transactions of the public Chests, or as the Depositaries of Public Money, to submit to the Govrs. and to make public in the Colony periodical Statements of their Assets and Liabilities, to convey directions to the Govr. of New South Wales to cause regulations to that effect to be adopted and observed whenever the new company shall have opened its Banking Establishment in that Colony.

Regulations
re public
accounts in
banks.

I am, &c.,
F. BARING.

LORD GLENELG TO SIR RICHARD BOURKE.

(Despatch No. 22, per ship Royal Sovereign.)

Sir,

Downing Street, 10th July, 1835.

10 July.

I have to acknowledge the receipt of your Despatch No. 75 of the 1st Sept. last, enclosing a copy of the Act passed by the Legislature of your Government on the 18th of July, 1834, No. 5, entitled:—

Appropriation
act
acknowledged.

“An Act for applying certain Sums arising from the Revenue receivable in New South Wales to the service thereof for the year 1835, and for further appropriating the said Revenue.”

By my Predecessor's despatch No. 23 of the 13th February last, you have already been placed in possession of the decision of His Majesty's Government on the various Items of expenditure comprised in the Estimate for the present year, and I have only to convey to you His Majesty's approval of the Act in question.

Approval of act.

You have also enclosed copies of certain Protests of Mr. J. Blaxland, entered on the Minutes of the Legislative Council on the passing of that Act. The object of these Protests is, as you state, to assert the right of the Colonial Legislature to the appropriation of the Revenue arising from the disposal of Land. This is a question, which, in principle and in the sense apparently intended by Mr. Blaxland, it is not necessary here to discuss; but I am ready to admit that it is but just and reasonable that those Revenues should be applied wholly and exclusively for the benefit of the Colony. By the enclosure to Lord Aberdeen's despatch No. 39 of the 15th Novr. last, you would perceive that His Majesty's Government have acceded to the principle of the local Treasuries of the respective Australian Colonies receiving any surplus of the Land Revenue and of the other casual Revenues of the Crown, beyond the Sums appropriated to the

Protest by
J. Blaxland *re*
appropriation
of land
revenues.

Surplus land
revenue at
disposal of
council.

1835.
10 July.

Surplus land
revenue to be
placed in
colonial
treasury at
end of year.

purposes of Emigration, etca.; and, in the spirit of that arrangement, you will consider yourself authorised to place in the Colonial Treasury whatever Revenue of the Crown may remain unappropriated at the expiration of every year, after paying the expenses incurred on account of Emigration, and after defraying any other charges which His Majesty's Government should think proper to direct should be borne on that Revenue. At the same time, it cannot be too distinctly understood that the directions just given are not to be taken as divesting the Government of the full and uncontrolled power of applying the Crown Revenues, in part or in whole, without the consent or intervention of the Legislature.

Retention of
power over
crown revenues.

On the question of keeping up our relation with New Zealand, I shall have occasion to address to you a separate despatch.

The other points, to which you advert, have already received full consideration in reviewing the Estimate for the present year.

I am, &c.,

GLENELG.

LORD GLENELG TO SIR RICHARD BOURKE.

(Despatch No. 23. per ship Royal Sovereign.)

11 July.

Sir,

Downing Street, 11th July, 1835.

Petition
received from
settlers at
Hunter river.

I have received your Dispatch No. 126 of the 14th of Decr. last, enclosing a Petition addressed to the King, purporting to proceed from various Landholders, employers of Convict Labour, and other Free Inhabitants of the Districts of Hunter's River, containing a representation with regard to the operation of the Local Act 3d Wm. 4th (No. 3), which you had passed with the Advice of the Legislative Council for consolidating and amending the Laws for the Transportation and punishment of Offenders in New South Wales.

Objections
to form of
petition.

With every wish to attend to the just and well grounded representations of any Body of Individuals, and duly to consider the Interests of every Class within your Government, and little disposed as I am to criticize the styles and manner in which representations of this nature may be drawn up, still I cannot help remarking the unusual form in which the Petition* now before me has been sent home. It is accompanied by the Signatures of various Individuals scattered over an extensive Tract of Country; but the Signatures are totally distinct from the document, and there is therefore no evidence that the Memorial speaks the Sentiments of those whose names are coupled with it.

Refusal to
submit petition
to H.M. the
King.

Under these circumstances, I do not feel that I can with propriety lay the Petition before His Majesty.

I am, &c.,

GLENELG.

* Note 6.

LORD GLENELG TO SIR RICHARD BOURKE.

1835.
11 July.

(Despatch marked "Separate," per ship Royal Sovereign.)

Sir, Downing Street, 11th July, 1835.

In my despatch of this day's date, acknowledging the receipt of the Petition* from the District of the Hunter's River, I have abstained from entering into any examination of the grounds of complaint, which the Petitioners may really have as to the inefficiency of the present Law to control the Convict Population.

Complaints by petitioners at Hunter river.

The form in which the Petition has been sent home is of itself sufficient to raise a doubt as to its genuineness and authenticity, and to make it very questionable whether it really does speak the sentiments of the Inhabitants generally of those Districts from which it professes to come. But, at the same time, I cannot help observing that there are affixed to those Petitions,† which were addressed to your Government in the first instance, and to the authenticity of which no doubt seems to attach, signatures of persons to whose statements some credit is due.

Doubts *re* authenticity of petition.

It was obviously necessary to revise the Law for the regulation of Punishments, as it existed when you assumed the Government of New South Wales; and I have no proof of the insufficiency of that which you substituted, with the advice and consent of your Legislative Council; for the allegations of the Petitioners are extremely general in their nature, and no attempt has been made to substantiate them by reference to facts.

Necessity for revision of law *re* punishments.

The statements, which you have sent home from the various Police Magistrates, tend to disprove the complaint as to the insubordinate state of the Convict Population, altho' I cannot but be struck with the circumstance, which is stated in the Report of Captain Forbes, the Police Magistrate at Patrick's Plains, that not only that District but the whole of the Hunter was disturbed by the depredations of an armed party of Bushrangers. How long that state of things may have continued does not appear, and it may perhaps be wholly unconnected with the state of the Law; but it is remarkable as existing in that particular quarter from which the Petition emanates.

Prevalence of bushranging in district of Hunter river.

I am not in possession of any facts, which bear out the charge of lax discipline in the different Government Establishments where Convicts are employed; and the Return of the Convicts, who have absconded from the Chain Gangs during the several years from 1830 to 1834, so far bears evidence of a strict and effective control.

Charge of lax discipline over convicts.

From the reports made by the different Magistrates in consequence of the enquiry which you instituted into the mode of inflicting Corporal punishments, there seems to be no ground for

* Note 6.

† Note 7.

1835.
11 July.

Infliction
of corporal
punishments.

the assertion that those punishments are insufficient, when inflicted with a properly constructed Instrument; but I observe, in almost all the Magistrates' reports, that reference is made to the imperfection of those Instruments. On this, of course, the force of the punishment in a great measure depends; and, if you are satisfied that due attention is not paid to this point of duty by those Officers to whom it is entrusted, it will be necessary for you to adopt some measure for ensuring the general adoption of the Standard Instrument as used in the Government Establishment at Hyde Park Barracks.

Provision
for summary
punishment.

As provision is made in the 17th Section of the Act for facilitating the summary punishment of Delinquents to a given, and I should conceive a sufficient extent, by the authority of one Magistrate, I am at a loss to understand how any real difficulty can be experienced on the part of the Settler in obtaining the enforcement of the Law, where punishment is merited; nor do I see that any ground exists for the assumption that crime has multiplied in a degree disproportioned to the vast increase of the Population.

Alleged neglect
of petition.

But one more point requires to be noticed. The Petitioners complain that their representation has been neglected by the local Government, and they assign that as their reason for appealing to His Majesty. I cannot perceive any remissness on your part in investigating the case; and their statement that the adjournment of the Legislative Council was connected with the reception by you of the Petition, unsupported as it is, can be regarded merely as a gratuitous assumption.

Necessity for
investigation
of complaints.

On the whole, therefore, it appears to me that the representations of the Petitioners have been satisfactorily met and answered; but the subject is one of such importance to the interests of the Colonists that you cannot be too careful in investigating every representation of this nature, which you may receive from any quarter, and in affording every means to the parties complaining of substantiating their statements. I am, &c.,

GLENELG.

LORD GLENELG TO SIR RICHARD BOURKE.

(Despatch No. 19, per ship Mary Ann.)

12 July.

Sir,

Downing Street, 12 July, 1835.

Pardons to
be granted to
convicts *per*
ship *Surry*.

His Majesty's Secretary of State for the Home Department, having had under his consideration the case of James Loveless, Thomas Stanfield, John Stanfield, James Hammet and James Brine, who were convicted at Dorchester in March, 1834, of administering unlawful oaths, and who were transported for

seven years to New S. Wales in the "Surrey," has requested me to authorise you to grant a Pardon to Thomas Stanfield, John Stanfield, James Hammet and James Brine, on condition of their continuing to reside in the Colony for the term of two years from the date of their arrival, and to grant a Pardon to James Loveless, on condition of his continuing to reside in the Colony during the remainder of his Sentence.

1835.
12 July.

Pardons to be granted to convicts per ship *Surrey*.

I have therefore to desire that you will take measures for carrying His Majesty's Gracious intention into effect, provided the conduct of the Prisoners has been good since their Transportation.

I am, &c.,

GLENELG.

LORD GLENELG TO SIR RICHARD BOURKE.

(Despatch No. 24, per ship *Royal Sovereign*.)

Sir,

Downing Street, 12th July, 1835.

I have referred for the consideration of the Home Department your Despatch No. 26 of the 12th February last, on the subject of certain Erasures in the Indent of the Convict Ship "Royal Admiral," which have created doubts as to the length of the Sentences passed upon certain of the prisoners; and I have the honor to transmit to you, for your information and guidance, a copy of a communication which has been received from the Irish Government, explaining the cause of the Alterations and Omissions in that Document, which are pointed out in your Despatch.

Explanation re alterations in indent of convicts per ship *Royal Admiral*.

As it appears that the List of the Convicts by the "Royal Admiral," whose cases were supposed to be affected by the Erasures in question, is perfectly correct, I think it right to return to you that Document for future reference in the Colony.

I am, &c.,

GLENELG.

[Enclosure.]

MR. W. GOSSET TO MR. F. MAULE.

Sir,

Dublin Castle, 7th July, 1835.

I have it in command of the Lord Lieutenant to acknowledge the receipt of your letter of the 26th ulto., transmitting a copy of a Dispatch from Major General Bourke, of certain alterations and omissions in the Indent of the Irish Convict Ship *Royal Admiral*.

And I am to observe that it is not possible to prevent erasures in the Indent, which, with the view of preventing delay, is commenced when the notification of the sailing of the Transport is received; during the interval of her sailing and arrival it invariably happens that several of the Convicts, who had been returned as "fit," become from various causes "unfit" to undergo the voyage.

Inability to avoid erasures in indent.

1835.
12 July.

Upon the arrival of the Vessel, Petitions pour in from the Convicts' Relations, which causes considerable embarrassment and ultimately leads to the evil complained of, it being necessary to substitute other Convicts for those previously marked off in Indent.

Statements
by convicts
re sentences.

In regard to the observation of the Convicts themselves (as in the case of Neil Finlaw and Dunn) being a correct source of information as to their commuted sentence, It generally happens that they are altogether uninformed on the subject, and it so occurs in their respective cases; their original sentence was "Death recorded," which was commuted as in Indent to seven years' Transportation.

Checking
of indent.

In respect to the omission of the day of the Month and the name of the Month, I have to observe that the Indent is checked by the Returns of the Inspectors General of Prisons, and is compared and so certified by Mr. Taylor, the Chief Clerk in this Department, who has latterly put his Initials to all erasures and alterations.

The list forwarded by your Letter is perfectly correct.

I have, &c.,
WM. GOSSET.

LORD GLENELG TO SIR RICHARD BOURKE.
(Despatch No. 25, per ship Royal Sovereign.)

13 July.

Sir,

Downing Street, 13th July, 1835.

Reorganisation
of medical staff
in colonies.

The attention of His Majesty's Government having lately been called to the defective state of the Medical Departments in New South Wales and Van Diemen's Land, it has at length been resolved to establish and maintain a superior Medical Staff for the purpose of supervising and controlling the Medical Establishments connected both with the Military and Convict Branches of the Public Service in those Colonies.

Deputy
inspector
and deputy
purveyor
appointed.

I transmit for your information and guidance copies of a Correspondence, which has passed between this Department and the Treasury, which will place you in possession of the details of these arrangements, as particularly set forth in the Instructions which have been prepared by the Director General of Army Hospitals. You will observe that one Deputy Inspector* of Hospitals and one Deputy Purveyor have been selected to proceed to New South Wales.

Regulations
required for
medical
treatment of
settlers and
others.

I have to request that you will give your best attention to this subject and afford every assistance in giving effect to the intentions of His Majesty's Government with regard to these arrangements, especially in framing the further Regulations for the guidance of the Medical Officers in affording Medical aid to Settlers and Assigned Servants, and to other Parties not entitled to receive such assistance gratuitously. You will also lose no time in transmitting for the consideration of His Majesty's Government the different Reports on the Medical Establishments, which are required by the Instructions of the Director General

* Note 8.

of Hospitals; and you will consider yourself authorised to direct the issue, by the Commissariat Department out of the funds applicable to Military and Convict charges, of the difference between the full and half pay of the Medical Officers, and of the allowances which would attach to their respective Ranks according to the Army Regulations if employed on the Military Staff of the Colony.

I am, &c.,

GLENELG.

1835.
13 July.

Authority
for payments.

[Enclosure No. 1.]

HON. J. STEWART TO UNDER SECRETARY HAY.

Sir,

Treasury Chambers, 5th March, 1835.

With reference to your letter dated the 5th ulto, enclosing correspondence relative to the defective state of the Hospitals and Medical Establishment generally in Van Diemen's Land, I am commanded by the Lords Commrs. of H.M.'s Treasury to transmit herewith a copy of the Minute of this Board, dated 3rd instant, in order that it may be submitted for the information of the Earl of Aberdeen, and to request you will state to his Lordship that, when the Medical Officers shall have been selected and their Instructions settled and approved, my Lords will cause all the details of the arrangement to be communicated to his Lordship for his consideration, and in order to the transmission of any requisite directions thereon to the Governors of the respective Colonies to which they apply.

Transmission
of minute.

I am, &c.,

J. STEWART.

[Sub-enclosure.]

COPY of Treasury Minute, dated 3rd March, 1835, on a letter from Mr. Hay.

READ.

My Lords resumed the consideration of the Report of the Comptrollers of Army accounts on the Documents relating to the State of the Medical Department at Van Diemen's Land, which accompanied Lieut. Govr. Arthur's letters of 15th April, 1833, and of the representations referred to in Mr. Hay's Letter relating to the Medical arrangements, connected both with the Military and Convict Departments in that Colony and in New South Wales.

Treasury
minute re
medical
establishments.

Write to the Secretary at War, acquainting him that my Lords have had under consideration the Report of Sir Jas. McGregor of 27th Feby., 1834, on the subject of the Medical Establishment at Van Diemen's Land, referring to the Documents forwarded by my Lords' directions to the Secretary at War's Department on the 21st December, 1833, together with a communication from the Secy. of State recommending that the arrangements suggested in that Report should be carried into effect, and advertng to the representations he has received from the Govr. of New South Wales relative to the adoption of some similar arrangement in that Colony. The Documents before my Lords strongly evince the urgent necessity for establishing some means of effectual supervision and control over the Medical Departments connected both with the Military and Convict branches of the service in those Colonies; and, upon fully considering all the circumstances submitted to them, My Lords are prepared to sanction the appointment, as suggested by Sir Jas.

1835.
13 July.

Approval of
appointment
of deputy
inspector and
apothecary.

McGregor, of a Depy. Inspector of Hospitals and an Apothecary at Van Diemen's Land; and likewise the appointment of similar officers to New South Wales. It is my Lords' intention that these Officers should exercise the authority and control, and perform the duties pointed out in Sir Jas. McGregor's Report; and that they should, upon their arrival at their respective Stations, forthwith proceed in conjunction with the Governors to the revision of all the existing Medical Establishments, connected either with the Military or Convict Departments, in order to their being placed, so far as circumstances may admit, under the Hospital regulations of the Army, and should make an immediate Report upon the state of the whole of those Establishments and of the Hospitals.

Instructions
to be prepared.

My Lords accordingly request that Officers may be selected, as suggested by Sir Jas. McGregor, from the Half pay List of the Medical Department of the Army for this service; and that Sir Jas. Macgregor may be desired to prepare the requisite Instructions for their guidance and to submit the same for my Lords' consideration and approval, with the understanding that the existing Medical establishments on the stations are not to be increased beyond the Appointments now calculated, and that the Instructions are not to authorize the creation of any new Hospitals or buildings of that description, or any extensive additions to existing Buildings, without the express previous sanction of my Lords' Board.

In framing these Instructions, it will likewise be necessary that Sir Jas. McGregor should observe that, under a recent arrangement, all charges relating to the Govt. and Establishments at New South Wales and Van Diemen's Land, with the exception only of those relating to the Convicts and to the Troops and Military Departments, are to be defrayed from the Colonial funds, including the maintenance of the Police Establishments.

Further acquaint the Secy. at War that, upon being apprized of the rate of full pay and allowances to which the Medical Officers selected for this service may be entitled upon re-employment, my Lords will give directions for defraying the difference between those rates and the half-pay of the parties, from Funds applicable to Convict and other charges in the Australian Penal Settlements.

[Enclosure No. 2.]

HON. J. STEWART TO UNDER SECRETARY HAY.

Sir, Treasury Chambers, 18th June, 1835.

I am commanded by the Lords Commiss'rs of H.M.'s Treasury to transmit to you the enclosed copies of a letter from the Secy. at War of 10th instt., and of its Enclosures, containing the Instructions which the Director Genl. of the Medical Dept. proposes to give to the Medical Officers to be sent to New South Wales and Van Diemen's Land, and I am to request that you will lay the same before Lord Glenelg, referring him to the communication to you on this subject, of 5th March last; and that you will move his Lordship to inform my Lords whether he approves of these Instructions, and that in that case he will cause copies of them to be forwarded to the Govrs. of New South Wales and Van Diemen's Land, apprizing those officers of the arrangements it is the intention of H.M.'s Govt. to adopt for the better regulation of the Medical Establishments in the respective Colonies, and directing them to give their best attention and assistance for carrying the same into effect, and especially in framing regulations for the guidance of the

Submission of
instructions
for approval.

Medical Officers in regard to the Medical aid to be afforded to Settlers, assigned Convicts, or other parties not entitled to receive the same gratuitously. My Lords also request that the Govrs. may be enjoined to lose no time in transmitting, for the consideration of H.M.'s Govt., the different Reports relating to the Medical Establishment which are required by the Instructions; and that they may be further authorized to direct the issue, by the Commissariat Dept., out of Funds applicable to Military and Convict charges, of the difference between the full and half-pay of the Medical officers, and of the allowances which would attach to their respective rank according to the Army Regulation if employed on the Military Staff in the same Colony.

1835.
13 July.
Reports to be transmitted.

Pay and allowances for medical officers.

My Lords would wish to be favored with an early communication of Lord Glenelg's opinion with respect to the proposed Instructions; upon the receipt of which, my Lords will cause the Officers to be despatched to their respective Stations without delay.

I am, &c.,

J. STEWART.

[Sub-enclosure No. 1.]

VISCOUNT HOWICK TO HON. J. STEWART.

Sir,

War Office, 10th June, 1835.

With reference to your letter of the 5th March last stating that the Lords Commrs. of the Treasury had, on a full consideration of the various Reports they had recd. from the Secy. of State for the Colonies, decided on maintaining a superior Medical Staff Officer in New South Wales and also in Van Diemen's Land, for the purpose of supervising and controlling the Medical Dept. connected both with the Military and Convict Branches of the service in those Colonies; I have the honor to report to you, for the information of their Lordships, that Sir Jas. McGrigor has apprized me that he has, in accordance with the directions from the Board of Treasury, selected two Depy. Inspectors from the Half pay for this duty, and has prepared for their guidance the Instructions of which I enclose a copy for their Lordships' consideration.

Selection of deputy inspectors;

In addition to the appointment of a Superior officer in each Station, your letter informs me that their Lordships desired to have an apothecary also selected from the half-pay for each Station. With reference to this proposal, Sir Jas. McGrigor has stated that he has not an efficient apothecary upon the half-pay List; and he suggests that Depy. Purveyors would be more fitted for the duties required than apothecaries; and he has accordingly selected two officers of that class for restoration to half-pay.

and of deputy purveyors.

It only remains for me to report to you the names of the Officers Selected, their present half pay, and the rates of full pay they will be entitled to receive:

Particulars of appointments.

		Present ½ pay.	Rate of full pay.	Difference to be charged to Colonial fund.
Deputy Inspector	Willm. Barry	15 0	28 0	13 0
" "	John Vaughan Thompson	17 0	30 0	13 0
Deputy Purveyor	D. P. Sheppard	5 0	9 6	4 6
" "	W. H. Chipp	5 0	9 6	4 6

I am, &c.,
HOWICK.

1835.
13 July.

[Sub-enclosure No. 2.]

SIR JAMES MCGREGOR TO DEPY. INSPECTOR-GENL. OF HOSPITALS.

Sir, Army Medical Department, 20 May, 1835.

Instructions
to deputy
inspector-
general of
hospitals.

In announcing your appointment to the office of Depy. Inspector General of the Convict and Military Hospitals in the colony of New South Wales, you will on your arrival at that station report yourself to His Ex. the Governor of the Colony for the discharge of the duties attached to your appointment.

You are clearly to understand that, altho' you are commissioned to full pay, you are borne on the Army Establishment at the rate of your half-pay only; the difference between that and your full pay, with lodging money, forage for horses, travelling expenses, and other allowances of Officers of your rank in the Colonies, are to be made up to you from Funds applicable to convict and other charges in the Australian Penal Settlements, and for which special Instructions will be issued from this Country by the Lords Commissrs. of H.M.'s Treasury.

In order to carry into effect the objects contemplated in your appointment and that of the Depy. Purveyor, similarly commissioned to yourself, and acting under your Special Orders, it will be necessary that you immediately visit the several Military and Convict Branches of the Colony, and forthwith proceed in conjunction with His Excy. the Govr. to the revision of all the existing Medical Establishments connected either with the Military or Convict Departments, in order to their being eventually placed, as far as circumstances may admit, under the Hospital regulations of the Army. You will thereafter, and periodically, at such distance of time as may be directed, make inspection tours of each Station and Hospital, furnishing the Inspection Reports of their condition to the Govr. You are however distinctly to understand that the existing Medical Establishments are not to be increased beyond the appointments now made; and that no new Hospitals or Buildings of that description or any extensive additions to existing Buildings are to be erected without the express previous sanction of the Government of this Country. In reporting therefore upon the state and condition of these Establishments, and suggesting the several improvements your experience and matured judgment may propose, you are to bear in mind that, under recent arrangements, all charges relating to the Government and Establishments in New South Wales, with the exception only of those relating to the convicts and to the Troops and Military Departments, are to be defrayed from the Colonial funds, including the maintenance of the Police Establishment. In reporting on the future control of the Convict and Military Hospitals of the Colony, you will be guided generally in your suggestions by the Instructions to the Principal Medical Officer on Foreign Stations and the usual regulations now in force, copies of which are sent herewith, and upon which your future regulations must be based. Although it is not intended by these Instructions to enter much into detail before the receipt of your Report of Inspection, etc., I am desirous especially to direct your attention to the establishment of an effective mode of issuing and controlling the expenditure of Medicines. The Depy. Purveyor acting under your orders will in future prevent the complaint of

out stations being inadequately supplied with Hospital Stores and Medicines. The Medicines being furnished from home as usual, you will take care that the regular Returns are kept up and the issues and requisitions are conformed to the established usage of the Army. The utmost vigilance is required in controlling this branch of public duty to prevent the Stores being improperly furnished, and the demands are limited to the wants of the Colony. With respect to the issue of Medicines to free people, and the assigned servants of Settlers and others unable to pay for the same, it will be desirable that you avail yourself of the opinion of a Board on the question, previously to reporting the measures you would propose as to the issues and mode of payment, persons strictly in the employment of Govt. only being entitled to Medicines gratis.

1835.
13 July.

Instructions
to deputy
inspector-
general of
hospitals.

In the allotment of the duties, Civil and Military, you will take care as much as possible to preserve the harmony necessary to good order: and, in assimilating the duties, you will not unnecessarily disturb the Colonial Surgeon's Appointments, and on all occasions obtain the approbation of the Governor and proper authorities in recommending any change of duty among the inferior Officers and Servants. It is requisite that the Report contain a detailed account of the manner in which medical treatment is extended to out-door Patients and men not belonging either to the Convict or the Military classes, as in so extensive a Colony it is expected that medical aid may be often required for free laborers or civilians. Stoppages, agreeably to the existing regulations of Army Hospitals, should at all times when practicable be established; and you will see that the Depy. Purveyor keeps the most exact account of these demands and their payment, and does not allow them to run into arrear. He ought periodically to make a statement of all stoppages in arrear, which Statement you should transmit to the Govr. The mode of obtaining payment in lieu of Stoppages from pauper and other Patients will receive your attention, in order to prevent the recurrence of losses hitherto sustained by the non payment of the stipulated amounts from the Masters and others considered responsible for such payments; and, altho' you must of necessity conform for the present to the existing regulations, it will be your especial duty to collect information and embody in your Report suggestions for the consideration and approval of the Govt. at home as to future proceedings in this branch of the service; as well as the accommodation at present, and such as may be required in future, for all classes of sick, not before contemplated or provided for.

The Scale of Diets in use in the Colonial Hospitals will receive your careful attention, they being considered at present very imperfect. Diet Rolls, altho' already in existence, are reported to have been irregularly kept. Your experience in Army Hospitals will readily suggest the most efficient measures for having this branch of your public duty carefully and effectually attended to in every Hospital by the attendant Medical Officer, and not delegated to irresponsible persons.

You will be pleased quarterly, and at such dates as may hereafter be agreed upon, to assemble a Board of Survey on the state of the Stores and Medicines; at which period, the Depy. Purveyor will lay before the Board a Statement of his expenditure, which they

1835.
13 July.

Instructions
to deputy
inspector-
general of
hospitals.

will narrowly and minutely examine, calling for vouchers, This Board to consist of yourself as President, of a Regimental Surgeon, and a Quarter-Master; and you will present the Report of the Board to the Governor.

Instead of Reports being, as directed in the accompanying Regulations, forwarded to the Director General, all those relating to the Convict or Civil Establishments are to be made to the Governor. All expenditure Returns relating to the Troops and the Army are to be forwarded to the Secy. at War; and the professional Reports and Returns to be sent to the Director General, as directed at the foot of the Instructions for Regimental Hospitals.

I have, &c.,
J. MCGREGOR, Director General.

[Enclosure No. 3.]

UNDER SECRETARY HAY TO HON. J. STEWART.

Sir, Downing Street, 24 June, 1835.

Approval of
instructions.

I have laid before Lord Glenelg your letter of the 18th Inst., enclosing copy of one from the Secretary at War, containing the Instructions which the Director General of the Army Medical Dept. proposes to give to the Medical Officers to be sent to New S. Wales and Van D. Land; and I am to request that you will state to the Lords Commrs. of the Treasury that Lord Glenelg approves generally of those Instructions, which seem to him to be judicially framed and to be well calculated to guide the Officers to whom they are to be addressed in the proper discharge of their duties.

Proposal to
discontinue
issue of
medicines to
civil servants.

There is however one point which appears to his Lordship to require some further regulation. I allude to the practise, which at present exists of supplying Medicines gratuitously to those persons generally who are employed in the Public Service in the Australian Colonies; and, if their Lordships concur with the Secretary of State in his view of the case, he will, in communicating the general arrangements to the respective Governors, direct them to take measures for discontinuing this practise, except in such cases as may appear specially to warrant a continuance of it, and which cases should as much as possible be defined by rule.

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

[Enclosure No. 4.]

HON. J. STEWART TO UNDER SECRETARY HAY.

Sir, Treasury Chambers, 4 July, 1835.

Issue to civil
servants to be
discontinued.

With reference to your Letter of the 24th ulto., respecting the Instructions which the Director Genl. of the Army Medical Dept. proposes to give to the Medical Officers to be sent to New South Wales, I am commanded by the Lords Commissrs. of H.M.'s Treasury to request you will acquaint Lord Glenelg that my Lords concur in the suggestions in your letter respecting the practice of supplying medicines gratuitously to persons in the Public Service, and they have accordingly signified such concurrence to the Secy. at War, desiring that any requisite additions may be made to the Instructions to the Medical Officers, and that those Officers may be dispatched to their respective destinations.

I am, &c.,
J. STEWART.

UNDER SECRETARY HAY TO SIR RICHARD BOURKE.

1835.
14 July.

(Despatch per ship Royal Sovereign.)

Sir, Downing Street, 14th July, 1835.

I am directed by Lord Glenelg to acquaint you, with reference to his Lordship's despatch No. 21 of the 9th Instant, that the Court of Directors of the Bank of Australasia has appointed Mr. George Kinnear to be the General Inspector of all the Company's Establishments in the Colonies of Australasia, and Special Manager of the Bank at Sydney, and has also nominated Mr. James Peck Poynter, Manager of the Bank at Hobart Town.

Appointment
of officers
for bank of
Australasia.

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

SIR GEORGE GREY TO SIR RICHARD BOURKE.

(Despatch per ship Royal Sovereign.)

Sir, Downing Street, 15th July, 1835.

15 July.

I am directed by Lord Glenelg to transmit to you here-with a copy of a Statement, which has been received at this Department from Mr. Sheil, M.P. for Tipperary, relative to the claim of a poor Woman named Eleanor Kennedy to some property, stated to have been left by her late Husband, and to have been paid into the hands of the Registrar of the Supreme Court of New South Wales, so far back as the year 1826. Since that period, every attempt to obtain any account of the property has been unavailing, although repeated applications appear to have been addressed to the local authorities on behalf of the claimant by the Colonial agent; and I am directed to request that you will report to the secretary of State the cause of the delay, which has occurred in this business, and that you will also transmit, at your earliest convenience, such information as may enable the Legal representatives of the deceased to obtain possession of such property as may be due to them from the proceeds of his effects.

Claim of
E. Kennedy
to effects of
deceased
husband.

I am, &c.,
GEO. GREY.

[Enclosure.]

CASE OF ELEANOR KENNEDY. 19 APRIL, 1826.

By letter of this date William Davis Wrote Eleanor Kennedy as follows:—"Sydney, New South Wales, 19th April, 1826. Madam, your late Husband John Kennedy of Paramatta is dead, and made his Will, and appointed me his Executor. He has left a legacy to you and your two daughters, as also to a child here. He ordered two parts of what he died worth, after paying his funeral expenses and debts, to be paid to you and your two daughters, and the other part to the child here. I have lodged your shares, which is £80

Legacy to
family from
J. Kennedy.

1835.
15 July.

currency, in the hands of Mr. Mills, the Register of the Supreme Court, and took his receipt for the same. My paying to him was by the order of the Governor that is here; Ralph Darling is the Governor's name. You can apply to Lord Bathurst's Office the Secretary of State, where I suppose you can hear everything about it. I had some notion myself of going home, and bringing it to you myself; but, having received the Governor's order to pay it as above, I immediately complied with it to lodge it as above stated.—WILLIAM DAVIS."

Eleanor Kennedy applied to the Colonial Office.

Correspondence
re payment
of legacy.

20th Octr., 1827. Mr. Barnard wrote to Eleanor Kennedy that Mr. Huskisson had directed her letter to be forwarded to him (Mr. Barnard) and that an enquiry had been instituted.

1st November, 1828. Mr. Barnard wrote in reply to a renewed application that, as soon as information should be received, it should be communicated.

On the 9th of December, 1830. Mr. Shiel wrote to Mr. Barnard to learn "Why no answer after such a lapse of time had been conveyed to Eleanor Kennedy"; and

On 11th December, 1830, Mr. Shiel received the following answer. "Sir, I have to acknowledge your letter of the 9th instant, respecting the Property of Eleanor Kennedy, Widow of John Kennedy of New South Wales, and to acquaint you in reply that, *as yet no answer has been received from Governor Darling* on the subject of this Property, which was referred to him on the 27th September, 1827; but, as more than sufficient time has elapsed since the information ought to have been transmitted, I have this day addressed another communication for his immediate Report."

In 1832, Mr. Shiel applied to Mr. Lefevre, who expressed his surprise that no answer had been communicated to Eleanor Kennedy, and stated that he would cause further enquiries to be made.

Mr. Shiel wrote several letters to Mr. Lefevre, but received no answer.

To this hour (8 July, 1835) Eleanor Kennedy, who is a poor distressed woman, has heard nothing respecting a claim, refused by the Colonial Office in September, 1827.

SIR RICHARD BOURKE TO EARL OF ABERDEEN.

(Despatch No. 59, per ship Bachelor.)

My Lord,

Government House, 15 July, 1835.

Transmission
of returns of
advances to
immigrants.

I have the honor to forward monthly Returns of Advances to Male Emigrants and of Bounties to Female Emigrants, prepared in accordance with the Instruction contained in Mr. Under Secretary Hay's letter of the 10th March, 1833, and extending from January to June of the present year. From a misunderstanding of that Instruction in the office where these Returns are prepared, those for the period, which elapsed between the receipt of Mr. Hay's Letter and the commencement of the present year, were not made out at monthly intervals as required. The

information they are intended to convey will however be found in the Returns, which accompanied my Despatches of the 6 Decr., 1833, No. 101, and the 9th May last, No. 47. The directions which I have now given will, I trust, ensure greater regularity in future.

I have, &c.,

RICHD. BOURKE.

1835.
15 July.

[Enclosures.]

[*These returns have been omitted.*]

UNDER SECRETARY HAY TO SIR RICHARD BOURKE.

(Despatch per ship Royal Sovereign.)

Sir, Downing Street, 16th July, 1835.

16 July.

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 with a copy of a Report therein enclosed from the Commissioners of Audit, with reference to a question which has arisen as to the appropriation of certain Fines and Fees levied by Magistrates at Van Diemen's Land; and I am to request that you will take the necessary measures for giving effect to the arrangement proposed by the Lords Commissioners of the Treasury for empowering the Magistrates to effect the prompt payment of the expenses attending the Capture of runaway Convicts, and the rewards due for their apprehension in the Colony under your Government.

Appropriation
of fines and fees
in Tasmania.

Payments by
magistrates.

I am, &c.,

R. W. HAY.

[Enclosure No. 1.]

HON. J. STEWART TO UNDER SECRETARY HAY.

Sir, Treasury Chambers, 4th July, 1835.

I am commanded by the Lords Commissioners of His Majesty's Treasury to transmit to you the Copy of a Report of the Commissioners of Audit of the 24th Ult. on Letters from Asst. Commy. Genl. Moodie and Depy. Asst. Commy. Genl. Darling on the subject of the appropriation of the Fines and Fees levied by Magistrates in Van Dieman's Land; and I am to request you will state to Lord Glenelg that, the Fines and Fees having hitherto been paid into the Military Chest, the subject was brought under my Lords' Consideration by the Officers in charge of the Commissariat at Van Dieman's Land, and will observe to his Lordship that, under the arrangements now in progress relative to the Expenditure of the Police and Convict Departments in the Australian Colonies, the Fines and Fees collected will be payable to the Colonial Fund. The Charge for rewards on the apprehension of runaway Convicts, to which this Report relates, will be borne by that Fund. That my Lords concur in opinion with the Commissioners of Audit that the payment of Rewards by Police Magistrates may properly form an exception to the general rule, under which all payments should be authorized by previous warrant of the Governor;

Appropriation
of fines and
fees in
Tasmania.

Rewards to
be paid by
magistrates.

1835.
16 July.

but it appears to my Lords that care should be taken that all disbursements of this description are brought under the Governor's early cognizance and are approved of by him. Should Lord Glenelg concur in the view thus taken by my Lords of this subject, they would request that the necessary communication may be made to Coll. Arthur thereon.

I have, &c.,
J. STEWART.

[Enclosure No. 2.]

COMMISSIONERS OF AUDIT TO LORDS COMMISSIONERS OF TREASURY.

My Lords, Audit Office, Somerset Place, 24th June, 1835.

Payment of
rewards for
apprehension
of runaway
convicts in
Tasmania.

In pursuance of Your Lordships' two orders of reference of 2d inst., we have had under our consideration a Letter from Assistant Commissary General Moodie, dated 22d Decr., 1834, and one from Deputy Assistant Commissary General of Accounts Darling of 24th of the same month, together with sundry enclosures, herewith returned, on the subject of the inconvenience which, as these Officers apprehend, is likely to result from an arrangement of Colonel Arthur, the Governor of Van Diemen's Land, relative to the mode of paying the rewards for the apprehension of runaway Convicts and other special Services incidental to the Police Department.

It appears from these Documents that, on the occasion of a payment being required for Police Services, the Governor, by a Letter from the Colonial Secretary dated 9th August, 1834, directed the same to be charged against the Fines and Fees collected at and paid out of the Police Offices to the Commissariat, and the Letter adds that a similar course was to be adopted in all future cases of a like nature, as it would render Warrants in such instances unnecessary.

This arrangement was objected to by the Commissary of Accounts; and, a further question having subsequently arisen as to the expediency of making prompt payment of the rewards for the apprehension of runaway Convicts, the Governor, by a further Letter of the 6th November, 1834, directed that the Magistrates of the Districts, in which the Captures might take place, should forthwith pay the same, and deduct the amount so paid from the Fines and Fees collected by them; and, in order that the full amount of such payments might appear in the Accounts of the Commissary against the Police Department, Colonel Arthur directed that the Assistant Commissary General should debit himself with the full amount of the Fines and Fees, and take credit for the payments made by the Police Magistrates, upon their transmitting to him the proper Vouchers and Receipts for such payments under which it appears to have been considered that Warrants from the Governor for the payments were included.

Subsequently, however, the Colonial Secretary, on 20 Decr., 1834, directs that the mode of payments to be made by the Police from the Fines and Fees collected should remain upon the footing mentioned in the prior Letter of that Officer, bearing Date 9th August, 1834, whereby no previous Warrants from the Governor were required.

As matter of Account and upon principle, it would certainly be desirable that the full amount of the Fines and Fees collected should be paid into the Public Chest, and that any Expenditure on account of the Police Service should be paid upon Warrants of the Governor; but there are cases in which this may not be practicable

without prejudice to the public service; and, as Colonel Arthur anticipates great advantages from the prompt payment of the rewards on the apprehension of Convicts by the Magistrates of the Districts in which the case may arise, we see no objection to those rewards, which are fixed Sums, and also the necessary expenses attending the capture, being settled by the Magistrate out of the amount of Fees in his hands in the manner pointed out by the Letter of 6th Novr., 1834; according to which, although a Balance only might be receivable into the public Chest, the full amount of the Fines and Fees received would appear on one side of the Account, while on the other hand the entire amount of the payment would be charged against the public, but without requiring the Governor's Warrants for the payment to be produced.

1835.
16 July.

Approval of
payment of
rewards by
magistrates.

We consider it, however, to be necessary that, in all cases, the expenditure out of the receipts for Fees and Fines should be supported by proper receipts from the parties to whom the payments are made, and that the authority of the Governor should be produced for making all those contingent payments, excepting those for rewards, and the necessary expenses of capturing the Convicts.

We have, &c.,

F. S. LARPENT.
J. WHISHAW.
H. F. LUTTRELL.

SIR RICHARD BOURKE TO EARL OF ABERDEEN.

(Despatch No. 61, per ship Bachelor; acknowledged by
lord Glenelg, 31st January, 1836.)

My Lord, Government House, 17 July, 1835.

17 July.

The melancholy intelligence of the loss* of the ship "Neva," bound to this Colony from Ireland with Female Prisoners, having been communicated to this Government, by that of V.D.'s Land, I have thought it right (notwithstanding the probability of the same or further particulars reaching England from that Colony before this shall come to hand) to forward by the first ship a copy of the letter of the Colonial Secretary of Van Diemen's Land for your Lordship's information. I have, &c.,

Report *re* loss
of ship *Neva*
with female
convicts.

RICHD. BOURKE.

[Enclosure.]

COLONIAL SECRETARY MONTAGU TO COLONIAL SECRETARY MACLEAY.
Van Diemen's Land,

Sir, Colonial Secretary's Office, 4 July, 1835.

By direction of Lieutenant Governor Arthur, it is my painful duty to acquaint, for the information of His Excellency Sir Richard Bourke, that the Ship *Neva* from Cork bound to New South Wales with Female Convicts was on the 13 May last wrecked on the Harbinger Reef about nine or ten Miles from King's Island in Bass' Straits.

Wreck of ship
Neva on
Harbinger reef.

Full and precise information has not yet been obtained on this subject, but directions have been issued for a most minute inquiry to be instituted at Launceston into all the circumstances of this accident, and, in the meantime, I am instructed to state that it appears from the Report of the Commandant at Port Dalrymple

* Note ƒ.

1835.
17 July.

that the Neva left Cork on the 8th January with 150 female prisoners, 59 children and 9 Women, a Surgeon, Muster and Crew of 25 Men and that the Vessel struck on the Reef on the 13 May at about 4 o'Clock in the Morning; her Boats were got out and were immediately stove in and the Ship went to pieces in about four hours.

Survivors
from wreck.

Twelve Female prisoners reached the shore (King's Island) alive on pieces of Wreck, 6 of whom died on the same day from cold and drinking to excess from some spirits that were washed on the land, the Muster Mate and 7 Seamen were also saved, but the Surgeon, Mr. Stevenson, R.N., 17 Seamen, 9 Free Women, 59 Children and 138 female prisoners were unfortunately drowned.

I am to add that Lieutenant Governor Arthur has reported the Calamity to His Majesty's Government by a Vessel now on the point of sailing for England, and as soon as possible His Excellency Sir Richard Bourke will be furnished with a full account of the result of the inquiry which is now in progress in this matter at Lauceston.

I have, &c.,

JOHN MONTAGU.

UNDER SECRETARY HAY TO SIR RICHARD BOURKE.

(Despatch per ship Royal Sovereign; acknowledged by
Sir Richard Bourke, 25th January, 1836.)

18 July.

Sir,

Downing Street, 18th July, 1835.

Application
re land from
H. Jeanneret.

I am directed by Lord Glenelg to transmit to you an Application from Dr. Jeanneret, relative to the difficulties which he has experienced in obtaining Land in New South Wales; and I am to request that you will return Dr. Jeanneret's Communication to the Secretary of State, with any observations which you may have to make upon the subject of it, and that you will acquaint Dr. Jeanneret that his Application should have been sent through you in the first instance.

I am, &c.,

R. W. HAY.

[Enclosure.]

[A copy of this application is not available.]

SIR RICHARD BOURKE TO EARL OF ABERDEEN.

(Despatch No. 62, per ship Bachelor; acknowledged by lord Glenelg.
2nd January, 1836.)

My Lord,

Government House, 18th July, 1835.

Despatch
acknowledged.

I have the honor to acknowledge the receipt of Your Lordship's Despatch of the 8th March last, No. 29, notifying H.M.'s gracious allowance of 10 free and 88 Conditional Pardons, stated to have been transmitted with my Despatch No. 56 of the 30 Sepr. last.

As no such Despatch appears to have proceeded from this Government, and as the names of the Persons, whose Pardons

have been thus allowed, do not correspond with any that have been recommended from this Colony, I have thought it likely that the Communication was intended for the Lieut. Governor of V. Diemen's Land, to whom I have directed it to be forwarded by the next opportunity.

1835.
18 July.

Probable mistake in transmission of despatch.

It may be as well at the same time to mention that, by a Despatch of the 26 Sept. last, No. 101, I had the honor to recommend for allowance 71 Conditional Pardons therewith transmitted.

I have, &c.,

RICHD. BOURKE.

UNDER SECRETARY HAY TO SIR RICHARD BOURKE.

(Despatch per ship Royal Sovereign.)

Sir.

Downing Street, 19th July, 1835.

19 July.

Lord Glenelg's attention has lately been called by the Lords Commissioners of the Treasury to an allowance of 30s. a day, which is granted to the Superintendent of Convicts at New South Wales for travelling Expenses. His Majesty's Government have no reason to doubt the propriety of issuing to that Officer an adequate allowance for defraying his travelling charges, nor does the amount, which he receives, appear to exceed the rate usually granted to other Officers of the same rank; but, allowing every consideration for the heavy expense of travelling in New South Wales, Lord Glenelg cannot but consider that some reduction might be effected in this branch of expenditure.

Allowance for travelling expenses to superintendent of convicts.

I am, &c.,

R. W. HAY.

SIR RICHARD BOURKE TO EARL OF ABERDEEN.

(Despatch No. 63, per ship Bachelor; acknowledged by lord Glenelg, 2nd February, 1836.)

My Lord,

Government House, 19 July, 1835.

I have the honor to report that, in compliance with the suggestions contained in Lord Goderich's Despatch of the 18th March, 1832, No. 75, the Surveyor General, accompanied by the Colonial Botanist, an assistant Surveyor, and twenty-one men, has proceeded on an expedition* into the Interior of the Colony for the purpose of ascertaining the Course of the River Darling, discovered by Captn. Sturt in the year 1829. The expence of the equipment may be taken at £994 1s. 5d., according to the abstract transmitted herewith, and is charged according to precedent on the Military Chest. The party was last heard of on the borders of the located part of the Colony beyond Bathurst on the 8th May last. I am now anxiously awaiting

Departure of T. L. Mitchell on exploration of Darling river.

Expenditure on equipment.

* Note 10.

intelligence of their proceedings, which I shall have much pleasure in reporting as soon as it reaches me. In the meantime, I have the honor to forward for your Lordship's information a Copy of the Instructions,* which were issued for the guidance of Major Mitchell in this undertaking. I have, &c.,

RICHD. BOURKE.

[Enclosures.]

[Copies of these papers will be found in a volume in series V.]

SIR RICHARD BOURKE TO EARL OF ABERDEEN.

(Despatch No. 64, per ship Bachelor; acknowledged by lord Glenelg. 3rd January, 1836.)

20 July.

My Lord,

Government House, 20 July, 1835.

At the request of the Committee of the Sydney College, I have the honor to transmit, for your Lordship's consideration, a Memorial praying for a grant of land, consisting of 2a. 3r. 35p., adjoining the site of the College.† The Committee have been informed of my inability to comply without the special authority of His Majesty's Government.

With the highest opinion of the merits of this Institution, I feel, nevertheless, restrained by the answer‡ lately given by Lord Stanley to a similar application on behalf of the Sydney Mechanics' School of Arts from advocating this particular mode of augmenting the property of the College. I must also add that much embarrassment would follow from the extension to this Institution of further aid by the Government, whether in land or money, on account of the number of other demands to which it would give rise. The pretensions of other Establishments not easily distinguishable from this have been recently brought before the Legislative Council and have not been regarded, it being deemed impossible to afford adequate assistance to all who might be in a condition to assert similar claims.

I have, &c.,

RICHD. BOURKE.

[Enclosure.]

[A copy of this memorial is not available.]

SIR RICHARD BOURKE TO EARL OF ABERDEEN.

(Despatch No. 65, per ship Bachelor; acknowledged by lord Glenelg. 22nd January, 1836.)

21 July.

My Lord,

Government House, 21 July, 1835.

It has been brought to my attention, by a letter of which an Extract is transmitted, that, during Sir Thomas Brisbane's administration of the Govt. of this Colony, the agent of Mrs.

* Note 11.

† Note 12.

‡ Note 13.

1835.
19 July.
Transmission
of instructions.

Request for
land grant for
Sydney college.

Objections to
proposed grant.

Macquarie, the widow of Govr. Macquarie, was put into possession of 2,000 acres of land, of which a grant under the great Seal of the Colony was to be made to her or to her son if approved by the Secy. of State.

1835.
21 July.
Location of land to widow of L. Macquarie.

Although I cannot anticipate any objection on the part of H.M.'s Govt. to confirm this Act of Sir Thomas Brisbane, yet, as no approval is to be found recorded here, I have to request I may be honored with your Lordship's commands to issue the requisite Deed of Grant. It may be proper, if the account lately received here of Mrs. Macquarie's decease be true, to issue the Deed in favor of her son, and in this case a reference to the family may be necessary for the name and other particulars.

Request for instructions re issue of deed for land grant.

I have, &c.,
RICHD. BOURKE.

[Enclosure.]

EXTRACT of letter from Mr. Rd. Fitzgerald, as agent for Mrs. Macquarie, to Colonial Secretary, dated Windsor, 6th May, 1835.

"THIS day I was honored with your letter of the 2d Instant. replying to mine of the 11th April, 1834.

Statement re land located for widow of L. Macquarie.

" In answer, I beg to inform you that Mrs. Macquarie signified to me an Application would be made to Sir George Murray for a Grant of Land in this Colony, it being her Son's native place* and his Father Governor so many Years.

" Doctor Rutherford, Surgeon Superintendent, lately brought me a letter from Sir Charles Forbes regarding Mrs. Macquarie; he understood that Lady had a Grant of Land in the Colony.

" When the 2,000 Acres were measured and authorised possession of it given to me as Mrs. Macquarie's Agent, Sir Thomas Brisbane taught me to believe that a Deed of Grant would be made in favor of Mrs. Macquarie or her Son, but subject to the Approval of the late Lord Bathurst; and Sir Thomas signified his regret that it was not in his power to offer something more handsome."

SIR RICHARD BOURKE TO EARL OF ABERDEEN.

(Despatch No. 66, per ship Bachelor; acknowledged by lord Glenelg. 4th January, 1836.)

My Lord, Government House, 22 July, 1835. 22 July.

I have the honor to transmit, in conformity to the Regulation established in this behalf, a Memorial from Mr. Edward Hunt.

Transmission of memorial from E. Hunt.

He applies for a Grant of Land under an order of Sir Thomas Brisbane, with which I have no power to comply, as it was cancelled by my predecessor General Darling.

I have, &c.,
RICHD. BOURKE.

1835.
22 July.

Memorial of
E. Hunt
claiming
land grant.

[Enclosure.]

THE humble Memorial of Edward Hunt, of Jamison Street, Sydney, in the Colony aforesaid, Cabinet Maker, *an Emigrant Settler*.

To His Majesty's Principal Secretary of State for the Colonial Department,

Sheweth,

That, about the middle of the year 1824, Your Memorialist applied to the local Government, then administered by His Excellency Sir Thomas Brisbane, for an additional Grant of land, to which he was entitled under the Regulations at that time in force, by his having supported a given number of convict servants.

2. That, after the lapse of eighteen Months from the date of the said application, your Memorialist had the honour to receive from the Colonial Secretary a letter, dated 10th December, 1825, stating that, the records of that Office having been examined in consequence of the said application, it appeared that the four Convicts therein named had been in Your Memorialist's service at both the last musters previous to that date, he (the Colonial Secretary) was instructed to acquaint Your Memorialist that, as he had received already One hundred acres of land, an additional grant of three hundred (300) was then to be allowed to him. *Vide Appendix A.*

3. That, in pursuance of the established custom of that period. Your Memorialist, soon after the receipt of the said Letter, personally applied to the Surveyor General (the late John Oxley, Esq., deceased) for a written authority to select his promised additional grant in any part of the Colony open for selection; but, from a variety of causes beyond the control of Your Memorialist, chiefly the proverbial negligence and delay of the Surveyor General's department, he was put off from time to time, until, in the subsequent year (1826) he had the misfortune to mislay the original of the aforesaid letter from the Colonial Secretary.

4. That Your Memorialist thereupon applied for an office copy of the said letter, but was not furnished therewith until the early part of the year 1827, when he waited with it upon the Surveyor General (Mr. Oxley) for the purpose of renewing his request for the requisite authority to select his land; but, to Your Memorialist's great astonishment and chagrin, he was then informed by that Officer that, in consequence of his not having sooner made his selection, General Darling would not confirm the order of Sir Thomas Brisbane, and that the said order had accordingly been cancelled.

5. That Your Memorialist, having in vain sought redress under the administration of General Darling, and knowing that his present Excellency, General Bourke, however he might be disposed to afford redress, is not authorised to alienate crown lands otherwise than by sale, now ventures to appeal to the honour and justice of His Majesty's Government, feeling confident that they will not sanction arbitrary and oppressive acts on the part of any of His Majesty's servants; and indulging the earnest hope that, from the foregoing statement (in support whereof Your Memorialist hereunto appends his affidavit), it will be apparent to you, Right Honourable Sir, that the delays, by which he was said to have forfeited his claim, were beyond Your Memorialist's control, having been caused by the procrastination of the public departments. *Vide Appendix B.*

6. That your Memorialist would have made this appeal much sooner, but for doubts entertained by his legal advisers whether such appeals should be addressed to His Majesty in Council, or to His Majesty's Principal Secretary of State for the Colonies:

1835.
22 July.

Memorial of
E. Hunt
claiming
land grant.

Wherefore Your Memorialist humbly prays, that you, Right Honourable Sir, will be pleased to take the premises into your favorable consideration, and authorise His Excellency the Governor of this Colony to redeem the official pledge of His Majesty's representative, Sir Thomas Brisbane, by granting to your Memorialist the quantity of land hereinbefore set forth.

And Your Memorialist, as in duty bound, will ever pray, etc.

EDWARD HUNT.

Sydney, 16th December, 1834.

(Appendix A, referred to in Paragraph 2.)

COLONIAL SECRETARY GOULBURN TO MR. E. HUNT.

Sir, Colonial Secretary's Office, 10th December, 1825.

The records of this Office having been examined in consequence of your Memorial, it appears that the Convicts named in the Margin* were in your Service at both the last Musters. I am instructed therefore to acquaint you that, as you have received already one hundred acres of Land, an additional Grant of three hundred (300) is now to be allowed to you.

Order for
land grant.

I am, &c.,
F. GOULBURN.

(Appendix B, referred to in paragraph 5.)

IN THE MATTER OF AN APPEAL TO HIS MAJESTY'S GOVERNMENT.

New South Wales to Wit.

EDWARD HUNT, of Sydney, in the Colony aforesaid, Master Cabinet Maker, being duly sworn, maketh Oath and Saith, that the divers matters and things set forth in the foregoing Memorial from himself to the Right Honorable the Secretary of State for the Colonies, are, to the best of his (Deponent's) knowledge and belief, strictly true and correct.

Affidavit
by E. Hunt.

EDWD. HUNT.

Sworn before me this 30th day of May, 1835:—A. B. SPARK, J.P.

SIR RICHARD BOURKE TO EARL OF ABERDEEN.

(Despatch No. 67, per ship Bachelor; acknowledged by Lord Glenelg, 25th March, 1836.)

My Lord, Government House, 23 July, 1835.

23 July.

In conformity with the Regulation by which I am required to forward communications addressed by the Inhabitants of this Colony to H.M.'s Government, I have the honor to forward a Memorial from Mr. Thos. Rose.

Transmission
of memorial
from T. Rose.

He prays for a free grant of Land in acknowledgement of the service he has rendered the Colony by constructing on his farm an embankment for retaining water, which has been useful in supplying his neighbours, and is likely to be advantageous as an example to other Settlers.

Request for
land grant
for services.

I have seen the structure to which his Memorial refers, and must bear testimony to its useful character, though without urging the propriety of rewarding the undertaking in the manner solicited.

I have, &c.,

RICHD. BOURKE.

* Marginal note.—Convicts: Robert Booth, James Carroll, Henry Cullen, Robert James.

[Enclosure.]

THE Humble Memorial of Thomas Rose, of Appin, in the Colony
of New South Wales, Settler,
To His Majesty's Principal Secretary of State for the Colonial
Department,

Sheweth,

That it is well known to all persons, conversant with His Majesty's possessions in Australasia, that the great natural defect in the Colony of New South Wales is its want of water owing to the irregularity of its rains and the fewness of its rivers; a defect which has at all times, from the foundation of the Settlement, been more or less injurious to its interests, but which, during the drought that broke up in the Year 1829, involved all classes of the community, more especially the agriculturists and Graziers, in the severest distresses.

That the District of Appin, about 40 Miles to the Southward of Sydney, is peculiarly subject to this afflictive privation, being situated on a range of hills from 3 to 7 Miles in width between Tuggerah Creek and a feeble branch of the River Nepean, both of which in that part of the Country form precipitous and almost inaccessible ravines.

That the District Township (Campbell Town) founded by Governor Macquarie about 17 Years ago, depending entirely upon the Rain for its supply of water, has frequently been reduced to the most painful extremity of suffering, the inhabitants having had, in seasons of drought, to carry their supplies from places no less than 4 or 5 miles distant from the Township.

That both in the Township and in the country attempts were made to remedy this sore evil by sinking of Wells, which, however, proved next to useless, for in seasons of drought, when they were most required, they were dry, and the water they retained after falls of Rain was invariably brackish.

That Your Memorialist's estate (named Mount Gilead), being on a more elevated and precipitous part of the range, received no benefit even from the Rains, farther than the moistening of its surface as the waters rushed at once into a distant part of the Nepean; and, although Your Memorialist sank a deep and expensive well and formed other excavations for retaining the Rain, his efforts were abortive, the water being always brackish.

That, about 12 Years ago, Your Memorialist's live-stock and farming establishment had become so extensive that his sufferings from want of water became most serious; and he was constantly led to revolve in his own mind every conceivable expedient for obtaining adequate and permanent supplies. The only artificial resources which he had ever heard or read, sinking for springs, intercepting running streams, or excavating Tanks or Wells for the retention of Rain water, were out of the question, for neither Springs or Streams were to be found, and the inefficacy of Wells and Tanks has been shown above.

That, after long and anxious consideration, it occurred to Your Memorialist that, by means of embankment, it might be possible to collect the Rain-water upon the natural surface of the ground in so great a body as to withstand both evaporation and absorption; and, in the Year 1824, he made an experiment of the kind upon a small scale, and with such success that he at once resolved upon the commencement of another, but upon a scale so bold and efficient

1835.
23 July.

Memorial
of T. Rose
soliciting
land grant for
demonstrating
possibilities
of water
conservation.

as not only to secure to his own establishment a plenteous and never-failing supply of excellent water, but moreover to furnish an example to the Colony at large.

That Your Memorialist accordingly selected the spot, which appeared most favourable to his undertaking, being a hollow at the foot of three gently sloping hills, the waters from which, in times of Rain, rushed onward to a deep Ravine and thence lost themselves in the River Nepean. His plan,* as nearly as it can be described in words, was as follows. The foundation of the embankment was composed of two parallel layers of stone, the front or inner one being a yard in width, and the Stones chiseled square and smooth; the other was of rough stone, but worked in good mortar. Between these layers was left an open space of 18 Inches in width, which was afterwards filled up with moistened earth or puddle. At the elevation of 9 or 10 feet, the rear wall was discontinued, but the front one advanced to the height of 17 feet from the deepest part of the ground. These walls were supported at the Rear by an embankment of dry earth, rammed hard at every layer of 6 inches, and flanked by an outer wall of rough stone. The extreme length of the inner wall is 104 yards, and its line slightly curved, approaching in form to the segment of a circle. At either extremity of the embankment is a sluice for carrying off any surplus of water; and, if the weather be carefully observed, the reservoir can be so effectually regulated by these Sluices as to allow the water, with perfect safety, to rise within an inch of the margin. The surface of the lake or reservoir, when full, measures 252 yards in length on one side and 214 yards on the other, and 80 yards in extreme width, presenting the shape of an irregular triangle. It has now existed for upwards of 10 Years, and, throughout the destructive and unexampled drought above alluded to, was never reduced more than 18 inches below its highest level; thus at once affording an inexhaustible supply of the purest water, and adding a picturesque ornament to the landscape.

That the only objection raised by the inhabitants to this undertaking, and which left imitation out of the power of the greater portion of them, being its *expensiveness*, and Your Memorialist, earnestly desirous that its advantages should be available to all classes, formed another on a smaller scale and without the use of *Stone*, the embankment being constructed entirely of *earth*; and he has had the satisfaction of finding that, during the period of 6 years, this humble reservoir has never been exhausted, and, being nearer the public road than the larger one, has afforded never-failing supplies to his poorer neighbours for many miles around, and, at the same time, served the purpose of a commodious bridge.

That, in the Year 1833, His Excellency Governor Bourke was pleased to honour Your Memorialist with a visit to his estate, when His Excellency was so well satisfied with the results of Your Memorialist's plan, that His Excellency lost no time in giving to the inhabitants of Campbell Town a plot of ground for the like purpose, and a reservoir was forthwith constructed thereon by public subscription; and, although the workmanship, performed by contract, was comparatively unskilful and slovenly, it has afforded complete relief from those sufferings to which, as was before mentioned, the Township was formerly so often subjected.

That the late Church and School Corporation, having ascertained the usefulness of Your Memorialist's undertaking, applied to him

1835.
23 July.

Memorial
of T. Rose
soliciting
land grant for
demonstrating
possibilities
of water
conservation.

* Note 15.

1835.
23 July.

Memorial
of T. Rose
soliciting
land grant for
demonstrating
possibilities
of water
conservation.

for information on the subject, and constructed a reservoir, upon his model, on the Orphan School farm at Cabramatta; and Your Memorialist understands that it has there also fully realised its important purpose.

That many of the Settlers and respectable inhabitants, whose estates were destitute of water, have been led by Your Memorialist's example to avail themselves of this simple and effectual method of husbanding the waters of heaven.

That Your Memorialist has thus succeeded, after years of anxious contrivance and laborious exertion and a considerable expenditure of money, in demonstrating the possibility of securing an ample supply of pure water through all seasons, in any part of the country where the surface at all undulates, and at an expense which every industrious Settler may easily afford.

That Your Memorialist is convinced, both by experience and observation, that this plan for securing water might be successfully adopted by the Government in supplying Townships requiring artificial resources, and would be infinitely less expensive, if not far more effectual, than aqueducts or Canals. And he begs permission to say, without the slightest intention to reflect upon any of the local authorities, that, had his principle been applied to the Town of Sydney, a body of water might, within the space of a Year or two and at an insignificant expense, have been accumulated, abundantly sufficient not only for the consumption of the inhabitants but for the irrigation of the Town.

That Your Memorialist would respectfully suggest that his plan might be adopted with great advantage in the construction of bridges on the high roads, inasmuch as the embankments would answer every purpose of bridges, and be more durable and less expensive than most of those now in use in this Colony; while the bodies of water, which would be thus accumulated, would be of the most essential service to the flocks and herds and other live stock travelling to and fro.

That, although Your Memorialist was in the first instance urged to this expedient by the pressure of his own individual necessities, and although his subsequent endeavours to promote its general adoption have been dictated by a disinterested concern for the welfare of his fellow Colonists, he now ventures, at the suggestion of many intelligent persons, to bring his undertaking under the condescending notice of His Majesty's Government, with the humble hope that it may be deemed worthy of public recognition, as suggesting a valuable resource of general applicability; and that he may be honoured with some token that his exertions are not held undeserving of official commendation.

Wherefore Your Memorialist humbly prays that you, Right Honourable Sir, will be pleased to take the premises into your favourable consideration; and, if His Majesty's liberal and enlightened Government shall be of opinion that he has rendered a useful service to his country, that they will be pleased to authorize the local Administration to confer upon Your Memorialist a Grant of Land, or such other mark of approbation as to His Majesty's Government may seem meet.

And Your Memorialist, as in duty bound will ever pray, etc. etc.

THOMAS ROSE.

Appin, New South Wales, 15th January, 1835.

SIR RICHARD BOURKE TO EARL OF ABERDEEN.

1835.
24 July.

(Despatch No. 68, per ship Bachelor; acknowledged by lord Glenelg. 15th February, 1836.)

My Lord,

Government House, 24 July, 1835.

I have to acknowledge the receipt of your Lordship's despatch of the 4th March last, No. 28, conveying instructions as to the restraint under which transported convicts of the 2nd class are to be kept in this Colony. Upon the arrival of these instructions, persons of the description referred to were working in Irons on the Stone Quarries of Goat Island in Port Jackson and 76 (in Irons also) on a road now forming in the Illawarra District about 70 Miles from Sydney. They have all been relieved from their Irons in obedience to your Lordship's commands, but are kept at the same work. They appear, as I am informed, to receive with gratitude this relaxation of punishment, and their labor on Goat Island is said to be carried on with an alacrity unknown before.

Despatch
acknowledged.

Irons removed
from convicts at
hard labour.

The course, which I propose to pursue with these persons as with those who have lately and may hereafter come out under an instruction to be kept to labor on the Public Works, is as follows: A portion shall be kept on Goat Island from whence escape is almost impracticable, as long as the public service requires the labor of a gang at that place, and the residue shall be placed at convenient stations on the roads of the interior under such superintendence, Civil or Military, as circumstances permit. The discipline enforced by the latter is incomparably superior, and I propose to avail myself of it as far as the Force under my Command will allow. The Convicts thus kept at labor will be clothed in parti-colored suits, to distinguish them from those under assignment to Settlers, and will be subject to the same strictness of regulation as the Ironed-Gangs excepting the imposition of chains. To this restriction however, any individual will be exposed, who attempts an escape or who shall be retaken after effecting it. I propose that the duration of this manner of employment after one, two, or three years' probation, according as the offender shall have been transported for seven or fourteen years or for life, shall be dependent upon his conduct here, and that after the period of probation he may be assigned to private service if he shall seem deserving, from which assignment his time for a Ticket of Leave shall commence to run.

Proposed
system for
convicts ordered
to labour on
public works.

In this way I hope to reconcile the clemency of your Lordship's suggestions with the opinion of Mr. Secretary Goulburn, Communicated in the Despatch now under reply.

1835.
24 July.

Convicts
employed on
public works.

There will be thus two descriptions of Convicts laboring on the public works. Those in Irons under Colonial Sentence, and those of the 2d class from England out of Irons, to which latter number will be added those who, being found unfit for private service from an incurably idle or perverse disposition, require to be put under greater restraint. To keep both of these descriptions in proper order, a considerable expense, chargeable on the British Treasury, will be incurred; but it is one that, under every point of view in which transportation may be regarded, it is necessary to meet. I need hardly observe that in proportion to the severity and length of the punishment is the disposition to escape from it; and, if these Convicts are to be treated with the strictness their misdeeds merit, constant superintendence and great vigilance will be required, more especially as when freed from irons, the facility of escape is much increased. This superintendence cannot be obtained but at a considerable cost for guards and temporary accommodation in the remote Districts where their labor is required. Upon the mischievous consequences of escape I need not dilate. The fugitives necessarily become Robbers to support life, and the industrious Settler is their prey.

Necessity and
expense of
constant super-
intendence.

I have, &c.,

RICHD. BOURKE.

SIR RICHARD BOURKE TO EARL OF ABERDEEN.

(Despatch No. 69, per ship Bachelor; acknowledged by lord Glenelg. 5th January, 1836.)

25 July.

My Lord,

Government House, 25 July, 1835.

Transmission
of letters from
Sir J. Jamison.

I have the honor to transmit copies of letters addressed to this Government by Sir John Jamison, chairman of a Society denominated the "Australian Patriotic Association."* I was requested, as your Lordship will perceive on its perusal, to propose to the Legislative Council the appropriation, out of the Colonial Revenue, of a sum not exceeding £2,000 per annum, to defray the expences attendant upon the appointment of a Parliamentary advocate and two Secretaries, together with the rent of offices, Stationery and other contingent charges. Having informed the Chairman that I do not consider myself authorised by the King's instructions to comply with such an application, I have been requested to forward the accompanying correspondence "in order that His Majesty's commands thereon may be obtained."

Request for
grant in
support of
parliamentary
agent.

I have, &c.,

RICHD. BOURKE.

* Note 16.

[Enclosure No. 1.]

1835.
25 July.

SIR JOHN JAMISON TO COLONIAL SECRETARY MACLEAY.

Australian Patriotic Association,

Sir, Committee Room, George St., 26th June, 1835.

I have the honor herewith to enclose a letter addressed to His Excellency the Governor, and I shall feel obliged by your transmitting the same to His Excellency at the earliest opportunity. Transmission of letter.

I have, &c.,

JNO. JAMISON, Chairman, Prov. Committee.

[Enclosure No. 2.]

SIR JOHN JAMISON TO SIR RICHARD BOURKE.

Sir, As Chairman of the Provisional Committee of the Australian Patriotic Association now formed, I do myself the honor to submit that, in pursuance of a Resolution passed at the late Public Meeting in the Court House, Sydney, May 29th, 1835, it was deemed expedient for the welfare of this Colony, to appoint in the person of Henry Lytton Bulwer, Esqr., M.P., a Parliamentary Advocate, with powers and instructions to act for and virtually to represent this Colony in England.

Appointment of parliamentary agent for colony;

In accordance with this appointment, it was further deemed necessary that there should be two Secretaries, a Secretary in England to act under the Parliamentary Advocate for the Colony, and a Secretary to the Committee in the Colony, And it having been computed that the expenses of these several appointments, together with the rent of an Office both in England and in the Colony as well as the Cost of Stationery, Postage and printing and other unavoidable or probable expenses, would not exceed £2,000 (Two thousand pounds) per Annum,

and of secretaries.

I have the honor, agreeably to a subjoined Resolution marked A passed to that effect, to request your Excellency will be pleased to lay a Bill before the Legislative Council for the appropriation out of the Colonial Revenue of a Sum not exceeding Two thousand Pounds (£2,000) Sterling per annum to defray the expenses attendant on the several appointments, etc., specified, and authorising such appointments *to be filled by the Colonists*.

Estimated annual expenditure.

Request for annual grant by council.

I beg to be permitted to observe that I am induced to bring the above statements and request before your Excellency from various weighty considerations, from a conviction on my own part, and that of the Members of the Association now formed, that such Association and the various appointments, now made or in contemplation consequent upon it, are not only indispensable for the positive advancement of the Agricultural, Commercial, and general interests of the Colony, but that they would be so if merely preventive to the recurrence of measures of the most impolitic tendency, which, even in the course of a very limited period of years, they have with much concern and apprehension seen about to take place, or actually adopted agreeably to orders from the Home Government, which they can attribute solely to the want of due information on the part of the Government at Home; circumstances to the ill effects of which the Colonists, we have every reason to expect, will be more subjected than ever from the late frequent changes that have taken place in the Councils of His Majesty, and still more so

Necessity for Australian patriotic association.

1835.
25 July.

Necessity for
Australian
patriotic
association.

from the daily increasing extent, importance and complication of the public affairs of this most remote appendage to the British Empire.

I beg to add that we are further convinced, from the extent of the association even in its yet nascent state, and from the intelligence and respectability of its members, as well as from its daily increasing extension and influence among all the respectable classes of the Colony, that it is eminently calculated to realize the expectations of the Public; and, in conclusion, I would beg to be permitted to observe that we trust that, in the present state of the Colonial Revenue with its daily increasing excess of receipts over its expenditure, the sum solicited for the highly important public purposes above specified may be so appropriated by your Excellency without detriment to any other Colonial Interest of however secondary importance.

I have now only to add that, should this application be favorably entertained by Your Excellency, the Committee will without loss of time prepare the Bill referred to, and lay it before your Excellency.

I have, &c.,

JNO. JAMISON, Chairman, Prov. Committee.

Australian Patriotic Association, George Street, Sydney, 26 June, 1835.

[Sub-enclosure.]

RESOLUTION.

Resolution *re*
request for
annual subsidy.

"THAT, to enable the Committee to carry these measures into operation, His Excellency the Governor be requested to lay a Bill before the Legislative Council for the appropriation of a Sum not exceeding £2,000 per annum from the Colonial Revenue to defray the Expenses attendant upon the several appointments alluded to, and authorising such appointments to be elected by the Colonists; which said Bill shall be prepared by the Committee; and, when such Expenses shall be paid by the public Treasury, the aforesaid Subscriptions cease."

[Enclosure No. 3.]

SIR JOHN JAMISON TO COLONIAL SECRETARY MACLEAY.

Australian Patriotic Association,

Sir, Committee Room, George Street, 10th July, 1835.

Decision by
Sir R. Bourke.

I have the honor to acknowledge the receipt of your communication of the 2d Instant, stating that, having submitted my letter dated 26th Ultimo with the Copy of a Resolution agreed to at a late Public Meeting to the notice of the Governor, you were directed to inform me that His Excellency does not consider himself authorised by the King's Instructions to lay before the Legislative Council the Bill particularized, without the previous communication of His Majesty's Commands signified by the Secretary of State for the Colonies.

Request for
reference of
letters to
secretary of
state.

Having duly laid your letter before the Provisional Committee of the Australian Association, I am directed to request that His Excellency will be pleased to transmit a Copy of the correspondence upon this subject to the Right Honorable the Secretary of State for the Colonies in order that His Majesty's Commands thereon may be obtained.

I have, &c.,

JNO. JAMISON, Chairman, Pl. Committee.

SIR RICHARD BOURKE TO EARL OF ABERDEEN.

1835.
26 July.(Despatch No. 70. per ship Bachelor; acknowledged by lord Glenelg,
26th February, 1836.)

My Lord,

Government House, 26 July, 1835.

I have to request your Lordship's early attention to the case of Mr. Francis Fisher, lately appointed Crown Solicitor in this Colony, as intimated to me by Mr. Secy. Spring Rice in his Despatch of the 16th Novr. last, No. 46. Mr. Fisher has arrived here and is in discharge of the duties of his office. The Salary hitherto attached to it has been £500 a year without Clerk or Stationery.

Conditions of
employment
of F. Fisher
as crown
solicitor.

By an extract of a letter addressed by Mr. Fisher to the Colonial Secretary which I have the honor to transmit, your Lordship will perceive that Mr. Fisher, previously to his acceptance of the office, was informed by Mr. Secy. Spring Rice that the Salary was to be £800 a year. I have seen an unofficial letter to Mr. Fisher from Mr. Spring Rice to this effect. In the Despatch of the 16th November last, No. 46, I am merely informed that "Mr. Fisher is appointed to the situation of Crown Solicitor at New South Wales in the room of Mr. Moore, whose removal is approved of." This being the only communication addressed to me on the subject, I have not felt myself authorised to issue any greater Salary to Mr. Fisher than that formerly enjoyed by Mr. Moore, waiting until I shall be honored with your Lordship's commands, of which I beg leave to solicit an early communication. At the same time, I think it right to express my perfect conviction that no well qualified attorney will undertake the duty at a less Salary than £800 a year, without Clerks or Stationery; and, at this rate of pay, I do not propose that the Crown Solicitor should be required to give up private practice. On the contrary, it is the opinion of the highest legal authorities here that the business of his office would probably be better conducted, if, by means of private practice, he was enabled to retain a greater number of efficient Clerks in his employment. The Gentleman, who lately held the office of Crown Solicitor, would not have continued to hold it on the former terms. This Augmentation of Salary to the Crown Solicitor I consider as absolutely necessary whether there be two or only one Barrister in the Constant service of the Crown. The duties of the Crown Solicitor are equally extensive and laborious in either case.

To the consideration whether one or two Barristers shall be retained in the constant service of the Crown in this Colony, I will now beg leave to advert, as it has probably given rise to the intimation made to Mr. Fisher that his Salary would be £800 a year. In a Despatch which I had the honor to address to the

1835.
26 July.

Previous
proposal for
crown law
officers.

Secretary of State for the Colonies on the 5th December, 1833 (No. 98), to which I beg leave to refer your Lordship, I expressed an opinion that one Barrister and one Attorney would be equal to the discharge of the Law Business of this Government, and proposed that the latter should receive a Salary of £800 a year, and find his own Clerks, but without suggesting that he should be restricted from private practice. This arrangement, your Lordship will remark, contemplated the reduction of one of the two Crown Lawyers now borne on the Colonial Establishment. Upon such reduction taking place, the occasional employment of a Barrister on Circuit or, if two Criminal Courts were sitting in Sydney at the same time might be necessary, and with such occasional aid the Crown business should be well performed.

Nomination of
J. H. Plunkett
as barrister.

Effects of
deafness of
J. Kinchela.

If your Lordship shall think proper to adopt the proposal I have submitted in the Despatch referred to, I would beg permission to state that, since it was written, I have had such experience of the Solicitor General's assiduity, talents, and fitness for business, as to justify me in recommending Mr. Plunkett as the Barrister to be retained in the Colony under that arrangement. The malady of the Attorney General, which I felt myself compelled though with great reluctance to report,* has not diminished, and his efficiency as an advocate in Court and as a Member of the Legislative Council remains so much curtailed as to render his continuance in office under this affliction a serious detriment to this Government. I am at the same time ready to bear witness to the assiduity and character for legal knowledge of Mr. Kinchela, and will, I trust, be excused in expressing a hope that, if removed from an employment which misfortune prevents his filling efficiently, some other may be found for him, to the whole duties of which he may be equal.

I have, &c.,

RICHD. BOURKE.

[Enclosure.]

EXTRACT of a letter, Francis Fisher, Esqr., Crown Solicitor, addressed to the Colonial Secretary, dated 20th July, 1835.

Salary and
allowances
promised to
F. Fisher on
appointment.

"ON receiving my appointment, as His Excellency will have learnt from the Copy of Mr. Secretary Rice's Letter to me of the 17 November last, it was determined by the Right Honorable the Secretary of State for the Colonies that my Salary as Crown Solicitor of New South Wales Should be £800 eight hundred pounds per annum; it was also Stipulated that I was Solely to devote my time and professional Services to Government, upon the Understanding that, for professional duty arising from connection with the Government but not coming within the usual and regular course of my Official Situation as Crown Solicitor, certain usual fees or allowances would be made, it was also Stated to me and Understood that an Allowance for a Clerk either was or would be made for my Office.

* Note 17.

“ It might be Supposed Unlikely for me, from the Short time which has elapsed Since my induction to this Office, to State how far I could discharge the duties of Crown Solicitor in Connection, as has hitherto been the Case, with private practice; but, from the accumulation of papers in the Office, from the nature and extent of the correspondence to be carried on by the Crown Solicitor, the necessity imposed by that Officer, not merely to become the instrument of laying papers before the Attorney or Solicitor General of the Colony, but of reading, understanding and Compressing So as to enable those Officers the more efficiently to discharge the labours of their Office, the Constant Communications from Public Offices, Magistrates, etc., received by and requiring the immediate attention of the Crown Solicitor, in addition to the attendance necessarily given to Public Officers, Prosecutors, Witnesses, etc., requiring Information and Assistance, it is quite impossible, for any one tolerably acquainted with the nature of public business, to see in a few hours how utterly impossible it would be for one Individual even to undertake the duties of Crown Solicitor in conjunction with that of a private professional adviser, Solicitor and Attorney.

1835.
26 July.
Inability of
crown solicitor
to undertake
private practice.

“ I have been induced to offer these observations, because I find that the want of official communication with respect to my appointment renders it necessary that I should make this Statement of the Terms upon which I have accepted that appointment for His Excellency's Information; and I beg leave to add that it was chiefly on the ground that my position in this Colony precluded the most irksome and difficult task of undertaking private practice in addition to the laborious discharge of public duty that I accepted the appointment.

Reasons for
statement.

“ Having upon the faith of this understanding relinquished an eligible position in Cambridge and anxious in every respect to fulfil what I believe to be my first and only duty, namely, the devotion not merely of my time but also of my best ability to the Service of this Government, and certainly averse to the being employed professionally under any other circumstances, I have only most respectfully and most earnestly to solicit His Excellency's early attention to this Subject.”

SIR RICHARD BOURKE TO EARL OF ABERDEEN.

(Despatch No. 71, per ship Bachelor; acknowledged by lord Glenelg, 23rd January, 1836.)

My Lord,

Government House, 27 July, 1835.

27 July.

As it is necessary that the King's Allowance should be notified in the Colony before any private Act of the Legislative Council can have legal effect, I take the first opportunity of transmitting an Act which passed on the 21st instant for enabling “ The Commercial Banking Company ” to sue and be sued in the name of their managing Director. For the reason stated, I take the liberty of requesting that no delay may take place in signifying to me His Majesty's Gracious commands.

Transmission
of Commercial
banking
company's act
for approval.

I have, &c.,

RICHD. BOURKE.

1835.
29 July.

LORD GLENELG TO SIR RICHARD BOURKE.
(Despatch No. 27, per ship John Barry.)

Sir, Downing Street, 29th July, 1835.

I have received your Despatch No. 3 of the 13th January last, in which you report that you have authorised the Deposit of £5,000 of the Public money with the new "Commercial Bank." In my despatch No. 21 of the 9th Instant, I transmitted to you detailed Instructions for your guidance in the employment of the local Banks as Depositories of Public Money and in the pecuniary transactions of the Public Departments. In addition to those Instructions, I have now the honor to transmit to you a copy of a letter from the Treasury, in answer to a reference which was made to that Board on the receipt of your Despatch under acknowledgment; and I have to desire that you will strictly observe the Rules therein laid down in any arrangements which you make with the Colonial Banks.

I am, &c.,
GLENELG.

[Enclosure.]

MR. F. BARING TO UNDER SECRETARY HAY.

Sir, Treasury Chambers, 23d July, 1835.

With reference to your Communications of the 26 Ulto. and 9th Inst., respecting the employment of the Banks in the Australian Colonies for the Deposit of Public Money, I am commanded by the Lords Commrs. of His M.'s Treasury to request you will call Lord Glenelg's attention to the letters addressed by My Lords' directions to Mr. Lefevre on the 25 July, 1834, and to you on the 2d Ulto., and will state to his Lordship that it appears to My Lords that it will be proper to apprise the officers admin'g the Govt. of New S. Wales and Van D. Land that, in all arrangem'ts relating to the employment of Local Banks, they are to consult the exigencies and Interests of the Public Service, and the proper accommodation of the Public Depts., and subject to the Regulation respecting the publication of explicit periodical Statements of Assets and Liabilities, and to the obviously indispensable preliminary requisite of the undoubted Credit of the Establishment; that they are to avail themselves of the assistance of those Banks, which may offer the most unquestionable security and the most advantageous terms for the Deposit of the Public Money and the transaction of the Public business. In regulating the amount of any Deposits with the Banks, or the conditions on which they are to be held, the Govrs. must be guided solely by considerations of public convenience; and, although they should be enjoined to take especial care that no undue preference is shewn to any of the legally constituted Banking Estabts. within their respective Govts., they are not to extend the Public Banking transactions in any manner that may involve deposits of Public Money to an inconvenient amount.

I am, &c.,
F. BARING.

Despatch
acknowledged
re government
deposit in
Commercial
bank.

Instructions
re government
accounts in
banks.

LORD GLENELG TO SIR RICHARD BOURKE.

1835.
30 July.

(Despatch No. 28, per ship John Barry.)

Sir, Downing Street, 30th July, 1835.

I have to acknowledge the receipt of your Despatch No. 28 of the 9th of February last with its enclosures on the subject of the Petition,* which you have already sent home from certain Settlers in the Hunter's River Districts against the operation of the Act of the local Legislature for consolidating and amending the Laws for the transportation and punishment of Offenders in New South Wales.

Despatch acknowledged
re petition of settlers at Hunter river.

I have already, in my Dispatch of the 11th Instant, entered fully into the grievances of which the Petitioners complain, and I have now only to add that the statements, contained in your present Dispatch, tend more fully to convince me of the propriety of the view which I had already taken of this subject.

I am, &c.,

GLENELG.

LORD GLENELG TO SIR RICHARD BOURKE.

(Despatch No. 29, per ship John Barry.)

Sir, Downing Street, 31st July, 1835.

31 July.

I have the honor to acknowledge the receipt of your Dispatch No. 17 of the 6th February last, with its various Enclosures, in which you bring under the consideration of His Majesty's Government the expediency of remitting the payment of certain Sums due by Settlers for the Rent of Lands, which they had held under the Regulations in force during the Government of Sir Thomas Brisbane and of Lieutt. General Darling, and had eventually purchased.

Proposal for remission of sums due for rent of certain lands.

I agree with you in thinking that there would be no injustice in enforcing the payment of this money, which, in no instance, appears to exceed that which the party, on whom the claim is made, consented to pay, and for which he received a valuable consideration; but as the repugnance to pay these arrears seems to be so great as to render it extremely improbable that a voluntary settlement of the debt could be obtained, and as the issue of any legal measures for recovering the Sums due by the various parties appears to be very doubtful, I have been induced to propose to the Board of Treasury, and their Lordships have acquiesced in, a compliance with the recommendation of yourself and your Council, that the Rents in question should be reduced to the rate chargeable upon grazing Leases (*viz.*, 2s. 6d.

Authority for reduction of rents.

* Note 6.

1835.
31 July.

per annum for every 100 acres) in every case where the Purchase of the Lands, on account of which the Rents are exigible, has been subsequently completed.

I am, &c.,

GLENELG.

LORD GLENELG TO SIR RICHARD BOURKE.

(A circular despatch per ship John Barry.)

Downing Street, 31st July, 1835.

Transmission
of order of
house of
commons.

I HAVE the honor to transmit to you herewith the Copy of an Order* of the House of Commons dated the 16th Instant, and I have to desire that you will lose no time in causing the returns required by this Order to be prepared and transmitted to me in Duplicate, according to the enclosed form, in order that they may be laid before the House of Commons.

I am, &c.,

GLENELG.

[Enclosures.]

[Copies of these papers are not available.]

SIR RICHARD BOURKE TO UNDER SECRETARY HAY.

(Despatch per ship Bachelor; acknowledged by lord Glenelg, 30th January, 1836.)

Sir,

Government House, 31 July, 1835.

Transmission
of requisition
for medicines.

I have the honor to forward a Requisition for Medicines and Stationery for the use of the Colonial Hospitals. As such applications have been formerly made to your Department, I think it as well not to relinquish this practice without instructions, lest it should have been intended to accord with some of the forms of office in England unknown to me.

I have to request your early attention to the present Requisition as the Stores are represented by Dr. Bowman the Inspector of Hospitals to be very deficient. He also states it to be impossible to obtain in the Colony good articles of the nature required at a reasonable price. It is on this account that medicines have not been included in the system of Tender now generally resorted to, and, altho' this reason does not apply to all the articles in the List, I have not thought it worth while to separate the items which have been placed together on former occasions.

Dr. Bowman has been for some time expectg. to receive a supply in consequence of a Requisition which he made in the year 1833, but which does not appear to have been forwarded.

I have, &c.,

RICHD. BOURKE.

[Enclosure.]

[This requisition has been omitted.]

Inability to
procure local
supplies at
reasonable
price.

* Note 18.

LORD GLENELG TO SIR RICHARD BOURKE.
(Despatch No. 30, per ship John Barry.)

1835.
1 Aug.

Sir, Downing Street, 1st August, 1835.

I have received your Dispatch No. 77 of the 3d of September last, enclosing a Copy of an Act No. 14, passed by the Legislative Council of your Government on the 22d of August last, for appropriating the Sum of £36,584 16s. 4½d. towards the liquidation of certain claims of the Commissariat Department on the Colonial Treasury; and, having conferred with the Lords Commissioners of the Treasury upon the suggestion contained in your Dispatch, I have to acquaint you that, as the claims of the Commissariat Department upon the Colonial Treasury for supplies furnished for the service of the Civil Government, since the commencement of the year 1832, have been regularly adjusted, and considering also the recent transfer of charges to a considerable amount for Police and other Services to the Colonial Funds, His Majesty's Government are prepared to remit any further claims upon the Civil Government of New South Wales, on account of supplies furnished prior to the year 1832.

Settlement of claims of commissariat on treasury.

Remission of further claims for supplies prior to year 1832.

I am, &c.,

GLENELG.

SIR RICHARD BOURKE TO EARL OF ABERDEEN.

(Despatch marked "Separate," per ship Bachelor; acknowledged by lord Glenelg, 26th February, 1836.)

My Lord, Government House, 1 August, 1835.

It must be obvious to your Lordship that the successful administration of the affairs of a Colony and the reputation and personal ease of the Governor are much influenced by the ability of the Colonial Secretary and the confidence, which subsists between that officer and the Governor. On this account, I may, I trust be pardoned, if I venture to address Your Lordship upon the subject of an appointment to this office which is, as I suppose, about to take place, Mr. McLeay having publicly announced the probability of his retirement within a year.

Influence of colonial secretary in successful administration of colony.

Proposed retirement of A. Macleay.

I would beg leave to represent to Your Lordship that there are two Gentlemen now holding office in this Colony, whose services it is undoubtedly a great object to retain. The one is Mr. Deas Thomson, the Clerk of the Councils, and the other Mr. William Macpherson, Collector of Internal Revenue. It has been recommended by the Commn. of Enquiry that the office of the latter should be abolished, the duties being transferred to that of the Colonial Treasurer. Circumstances, which have been made known to the Secretary of State for the Colonies, have prevented this recommendation from being hitherto carried into effect.

Desire to retain services of E. D. Thomson and W. Macpherson.

Proposed abolition of office of collector of internal revenue.

1835.
1 Aug.

Such progress, however, has lately been made in the arrangement of the business connected with Crown Lands as to offer a fair prospect of its being possible to transfer the office as proposed by the Commissioners. As Mr. Macpherson's Industry and talents would then be available for another appointment, I would respectfully propose that Mr. Deas Thomson should succeed to the office of Colonial Secretary, and Mr. Macpherson to that of Clerk of the Councils. Mr. Deas Thomson's acquaintance with all the details of Colonial business, which has for some years passed thro' the Councils, and his acknowledged integrity and ability fit him for an employment of such importance. Mr. Macpherson's habits of business and unwearied industry would not only ensure the complete and satisfactory discharge of the duties of his office, but enable me to derive much benefit from employing him in various details both during the sitting of Council and preparatory to its deliberations. I can assure Your Lordship that this business has now become very heavy and that I require assistance to carry it on.

Proposed
appointments of
E. D. Thomson
and
W. Macpherson.

Salary of
treasurer.

I would add that, on transferring the duties of the office of Internal Revenue to the Treasury, I do not consider it will be necessary, as the Commn. proposes, to add Two Hundred Pounds a yr. to the Treasurer's Salary. I deem it to be sufficient at a thousand, and your Lordship may perceive, by certain Protests and Petitions from the Colony, that the office is thought to be too highly paid at its present rate. It is further to be observed that the placing so much of the charge for Police and Gaols on the Colony has rendered advisable every possible diminution of expense in its other establishments. Your Lordship is probably aware that the Salary of the Colonial Secretary is to be reduced upon a new appointment to £1,500 a year, which may be considered adequate but not excessive.

Salary proposed
for colonial
secretary.

I have, &c.,

RICHD. BOURKE.

LORD GLENELG TO SIR RICHARD BOURKE.

(Despatch No. 31, per ship John Barry.)

3 Aug.

Sir,

Downing Street, 3d August, 1835.

Despatch
acknowledged
re surplus
revenue.

I have to acknowledge the receipt of your Dispatch No. 4 of the 13th of January last, in which you report the amount of the surplus Revenue, which remained in the Colonial Treasury at the conclusion of the last year, and you state in detail such Public Works as you consider that the increasing wants of the Colony most particularly call for.

Having referred the subject for the consideration of the Lords-Commissioners of the Treasury, I now transmit to you a copy

of their Lordships' reply; and, as the Works which you have enumerated seem calculated to prove highly beneficial to the Colony, His Majesty's Government are willing to authorize you to apply the balance in question to the construction of such of them as you have represented to be most urgently required. I have further to request your particular attention to the suggestions of the Lords Commissioners, with reference to the preparation of the plans and Estimates for those Works which are not immediately required, and for any Works which it may be proposed to undertake in future. It is to be hoped that you would have received my Predecessor's Dispatch No. 39 of the 15th of November last in time to prevent your adopting any specific plan for the erection of the Gaol at Sydney, as the Colony would, in that case, lose the benefit of the enquiries which the Senior Officer of the Royal Engineers about to proceed to New South Wales has been instituting into the arrangement of the Prisons in this Country with a view to assist him in carrying on the projected Works of that description, which it will be his duty to superintend.

1835.
3 Aug.
Authority for construction of public works.

Proposed gaol at Sydney.

With regard to the National Schools, I would only observe that it will be desirable to defer the commencement of any Buildings for that purpose, until His Majesty's Government may have come to some decision on the general plan of Education which you have submitted, and which is now under consideration.

Erection of national schools to be deferred.

I am, &c.,

GLENELG.

[Enclosure.]

MR. E. G. STANLEY TO UNDER SECRETARY HAY.

Sir, Treasury Chambers, 27th July, 1835.

With reference to your letter of the 7th inst., enclosing Copy of a Despatch from the Governor of New South Wales shewing the Balance which remained in the Colonial Treasury at the conclusion of the last year, I am commanded by the Lords Commissioners of His Majesty's Treasury to acquaint you, for the information of Lord Glenelg, that my Lords concur with him in opinion that the Works enumerated in General Bourke's Despatch are such as will be beneficial to the Colony, and that the Surplus Revenue which has accrued in the Colonial Chest may be very properly applied under due restrictions to the execution of them. My Lords likewise concur in opinion with Lord Glenelg that any arrangements relating to the Building of National Schools should await the decision of His Majesty's Government on the general Plan of Education that has been proposed by the Governor of New South Wales; and they will accordingly defer entering into the consideration of the conditions upon which any issues for this purpose should be made; but they may in the meantime observe that they conceive the most desirable mode of affording assistance from Public Funds for objects connected with general Education is by grants in aid of private exertion and subscriptions.

Approval of public works proposed by Sir R. Bourke;

and of delay in erection of national schools.

1835.
3 Aug.

The sanction and directions, already given respecting the construction of the New Government House and of the Goal at Sydney, renders it unnecessary for my Lords to suggest anything further on those heads; and they have therefore only to observe, with reference to the magnitude and importance of some of the other Works proposed, that they conceive it to be most advisable whenever permanent and expensive Buildings or Works are contemplated in the Colonies, that Specific Plans and Estimates should be submitted for the consideration of His Majesty's Government, in order that every practicable precaution may be adopted for ensuring economy and efficiency in the execution of them; and my Lords trust that, in consequence of the recent arrangements for the employment of Officers of the Ordnance Department in New South Wales, the Governor will be enabled, by the Assistance of the Officers of the Royal Engineers, to forward the Plans and Estimates of the remaining Buildings and Works, he would propose to undertake, in a complete and satisfactory form for the approval of His Majesty's Government and in order that the requisite sanction may be given in each specific Case.

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

Plans and
estimates to
be submitted.

LORD GLENELG TO SIR RICHARD BOURKE.

(Despatch No. 32, per ship John Barry.)

4 Aug.

Sir,

Downing Street, 4th Augt., 1835.

I have had under my consideration your Despatch No. 5 of the 14th January last, relative to some Land situated on the Hunter's River, which was leased to Mr. Timothy Nowlan by permission of Sir Thomas Brisbane, when Governor of New South Wales, under the following circumstances.

I learn from your Despatch and its enclosures that, in 1823, Mr. Nowlan, at that time a Settler in Van Dieman's Land, submitted to Sir Thomas Brisbane a proposal to introduce into New South Wales his system of sheep farming, and succeeded in inducing that Officer to afford him assistance in making the experiment. He was, accordingly, supplied with a number of sheep, and was allowed to place them on Lands at Hunter's River. Finding that the tenure, on which he held those Lands, did not sufficiently protect him from Trespassers, Mr. Nowlan applied in January, 1825, for a Lease of them for 7 years, and proposed that, if at the expiration of that term he had not established claims upon the further indulgence of Government, he should be allowed either to purchase the Land upon the terms of 1825, or, upon surrendering it, to receive the value of all permanent improvements made thereon. On the 18th Feby., he was informed that a 7 years' lease should be granted him "of such disposable Lands on the Banks of Hunter's River as" he might "select, at the annual rate of 3s. for every 20 acres (over the 2,000 acres which he was permitted to hold at a Pepper Corn Rent, in order

Despatch
acknowledged.

Lands leased
to T. Nowlan
at Hunter river.

to carry forward with success the experiment in which he had for some time been engaged) with the additional advantage that, should those Lands be taken from him at the expiration of that term, he should be paid the value of all permanent improvements, which he might have made upon them."

1835.
4 Aug.

Lands leased to T. Nowlan at Hunter river.

He accordingly obtained two Leases for 7 years, one of 2,000 acres at a Pepper Corn Rent, and the other of 3,800 at the Rent above mentioned. After the Leases expired, Mr. Nowlan was called upon to surrender the Land, in order that it might be offered for Sale. The effect of this was to produce the claims, upon which you ask for a decision.

Resumption of leases.

They may be separated into two points, 1st. Mr. Nowlan's claims to the 2,000 acres as a Free Grant, and 2d. The terms upon which he is entitled to purchase the 3,800 acres.

The free Grant of the 2,000 acres he asserts to have been promised to him by Sir Thomas Brisbane; but of this no record appears to exist; and the fact of his having applied for and received a Lease of this Land affords in my opinion satisfactory proof that Mr. Nowlan himself considered his possession of the Land merely temporary. The circumstance of its being marked in the Maps of the Surveyor General's Office as a "Grant" or "Reserved Grant" to Mr. Nowlan does certainly seem, as remarked by Major Mitchell and Mr. McPherson, to bear out Mr. Nowlan's assertion, although that alone is not sufficient to establish his claim, as it might have arisen from mistake or negligence on the part of the Officer who prepared the Map. Under all the circumstances of the case, however, I am disposed to give him the benefit of the doubt, so far as to authorise his receiving a Grant of the 2,000 acres under the Regulations issued from this Office in April, 1827, provided that he can prove satisfactorily that, at the date of the promulgation of the new Regulations in the Colony, he possessed adequate Capital to entitle him to a Grant of that extent, and that he had also previously applied for the Grant.

Claim by T. Nowlan to free land grant.

Land to be granted to T. Nowlan.

With regard to the 3,800 acres, Mr. Nowlan does not, in my opinion, possess the slightest claim to purchase them upon any other terms than those fixed by the present Regulations, the evidence furnished by the Enclosures to your Despatch being conclusive on that point.

Denial of preferential claim by T. Nowlan to purchase land.

You will, accordingly, put up to Sale the 3,800 acres and pay to Mr. Nowlan the value of any permanent improvements which he may have made upon them; and, if he should not succeed in establishing his claims to the 2,000 acres in the manner I have suggested, you will resume them for Public Sale, indemnifying him likewise for any permanent improvements.

Value of improvements to be paid to T. Nowlan.

1835.
4 Aug.

I enclose, for your information and guidance in the event of any similar cases being submitted to you, a copy of Lord Goderich's decision respecting the Reserve of Land claimed by Mr. Nowlan at Van Diemen's Land.

I am, &c.,
GLENELG.

[Enclosure.]

VISCOUNT HOWICK TO MR. TIMOTHY NOWLAN.

Sir, Downing Street, 16th Septr., 1831.

Refusal to
grant land
reserved for
T. Nowlan
in Tasmania.

I am directed by Viscount Goderich to acknowledge the receipt of your Memorial, in which you pray that the additional Allotment of Land ordered to be reserved for you in a letter addressed to the Lieut. Govr. of Van D. Land on the 22d April, 1822, and which you accordingly selected, may be now confirmed as a Grant. Lord Goderich has commanded me to acquaint you in reply that, although a grant of Land may be made with a view of its being ultimately confirmed to the Settler, he cannot consider that he has, on that account, any claim to the Land in question, until he has actually realized the Capital in contemplation of, and in proportion to which, the reserve might have been measured; nor, until the Reserve has been confirmed as a Grant upon the principle on which it was originally promised, can he look upon the Claimant as being exempt, in respect of such Reserve, from the operation of any new Regulation, which may in the meantime be adopted. Under these circumstances, and as the whole system of disposing of the Crown Lands in the Australian Colonies has been changed, Lord Goderich regrets that he cannot confirm to you the Grant of any part of the Lands for which you have applied, excepting upon the Terms now in force in the Colony.

I am directed to add that a copy of your Memorial will be transmitted to Lt. Govr. Arthur (through whom you should have transmitted it in the first instance) in order that he may have an opportunity of offering any observations on the subject of it, which he shall deem proper.

I am, &c.,
HOWICK.

LORD GLENELG TO SIR RICHARD BOURKE.
(Despatch No. 33. per ship John Barry.)

5 Aug.

Sir, Downing Street, 5th August, 1835.

Despatch
acknowledged.

I have received your Dispatch No. 19 of the 8th of February last notifying Captain Rossi's resignation of the Office of Superintendent of Police, and the appointment of Colonel Wilson to succeed to him under the arrangement sanctioned by my Predecessor. The only point, which now requires notice, is that which relates to the Emoluments of Colonel Wilson, and, under all the circumstances of the case, I do not object to authorize you to propose to the Legislative Council to provide for the increase to the Salary of the second Police Magistrate, without making the deduction which was intended in the first instance from the Emoluments of the Superintendent of Police.

Salaries for
H. C. Wilson
and
C. Windeyer.

I am, &c.,
GLENELG.

SIR RICHARD BOURKE TO EARL OF ABERDEEN.

1835.
5 Aug.

(Despatch No. 72, per ship Resource: acknowledged by lord Glenelg, 5th March, 1836.)

My Lord,

Government House, 5 August, 1835.

I have the honor to forward pursuant to the Regulation established in this behalf a statement addressed to your Lordship by Mr. Charles Wilson, formerly director of Public Works in this Colony.

Transmission of statement from C. Wilson.
5 Aug.

Mr. Wilson complains of my refusal to reopen an enquiry into the truth of charges brought against him in the year 1832, and then closed by his own act, on his services being dispensed with on another ground. To these charges, I had occasion to allude in my Despatch dated 4th May, 1832, No. 39, and they are specifically stated in the Colonial Secy.'s Letter to Mr. Wilson dated the 13th Feby., 1832, of which a copy is given in the Memorial now transmitted page 6.

Refusal to reopen enquiry re charges against C. Wilson.

Whilst this matter was pending in 1832, I received instructions from the Secy. of State to remove from the public service all officers, who had taken the benefit of the Insolvent Act. Mr. Wilson was among the number, and was accordingly removed from office.

Dismissal of C. Wilson for insolvency.

It appears, however, from the letters then addressed to him, of which he has furnished copies, that the very same opportunities of explanation, which he now seeks, were expressly tendered to him before the enquiry which was then pending was abandoned.

Mr. Wilson neglected to avail himself of those opportunities at the time, yet, when three years have elapsed, he calls upon me to renew the enquiry. I have refused to accede to his request and have given my reasons in my Private Secretary's Letter of the 24th April last, to which I beg leave to refer your Lordship.

Mr. Wilson's object in making such an application is to obtain from me an opinion favorable to his re-employment in the Colonial Service; but should an investigation, pursued after much important evidence may have passed away, fail in satisfactorily establishing the charges formerly brought against Mr. Wilson, such a result could not render it incumbent on me to seek his restoration to office to the exclusion of other candidates, who have never been removed for Insolvency and against whom no charge of misconduct has ever been brought. To prevent misapprehension, it may be necessary to advert to the Copies of notes and letters appended to the Memorial which are stated to have been received by Mr. Wilson from Members of my family and that of my predecessor, and to countenance the irregularities of which he was accused. All these communications, I would observe, appear to relate to Houses belonging to Government

Object of application by C. Wilson.

1835.
5 Aug.

which were properly kept up at the public expence and by means of the Department of which Mr. Wilson had charge. Such certainly was the House which my Aid-de-Camp, Captn. Westmacott, occupied, and to which the only note of his in the Collection applies, whilst the note from my Private Secretary applies for information as to the mode of supplying an article of consumption with the view, as I infer, of obtaining it in a regular way and without charge to the Public.

I have, &c.,

RICHD. BOURKE.

[Enclosure.]

[A copy of this statement is not available.]

LORD GLENELG TO SIR RICHARD BOURKE.
(Despatch No. 34, per ship John Barry.)

6 Aug.

Sir,

Downing Street, 6th August, 1835.

I have had under my consideration your Dispatch No. 21 of the 8th of February last, in which you state that the period of twelve months, during which it had been permitted to Settlers to redeem their quit Rents at the reduced rate of ten years' purchase, had nearly expired, and that but few persons had availed themselves of the opportunity offered to them.

This circumstance you attribute to a feeling prevalent in the Colony that, from the high rate of interest which money bore, it was unprofitable to redeem those rents even at ten years' purchase; and you suggest that another year should be allowed for purchasing the quit rents at such rate as the Council may determine with reference to the existing rate of interest.

I have no objection to accede to this proposal, provided the redemption of the Quit rent be determined at a rate no lower than ten years' purchase; and, as you anticipate that, from the rapid introduction of Capital, the interest of Money will be reduced, I trust that you will find it practicable to raise the terms on which the Quit rent may be redeemed.

I am, &c.,

GLENELG.

SIR RICHARD BOURKE TO EARL OF ABERDEEN.
(Despatch No. 73, per ship Resource.)

My Lord,

Government House, 6 August, 1835.

I have the honor to acknowledge the receipt of a Circular Letter from the Secy. of State for the Colonies, dated 1 October, 1834, transmitting 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

Proposal for
extension
of time for
redemption of
quit rents.

Approval
of proposal.

Despatch
acknowledged.

the Colonies and Dependencies of the Crown, and calling my attention to this important subject so far as relates to this Colony, and requiring that I should explain the present state of the Military Establishments, and should suggest any reduction that may be carried into effect without detriment to the public service.

1835.
6 Aug.

In reply I beg leave to state that neither in the Troops or Staff of this Command is it possible to make the slightest reduction. The strength of the former will, on the contrary, require to be increased if H.M.'s Governmt. continue to send out Convicts in such numbers as arrived last year.

Inability
to make
reductions
in military.

Having had occasion to communicate upon the strength and duties of the Military Force of this Command upon several occasions since my arrival in the Colony, I cannot make your Lordship better acquainted with my opinions on the subject, more readily than by submitting for your perusal copies of the several letters* I have addressed to the Commander in Chief on the subject, and copies* of those written to me by Colonel Arthur commanding in Van Diemen's Land. I particularly beg your Lordship's attention to my letter of the 18th July, 1834, in which I request to be relieved from the order to send two companies from the Force of these Colonies to Swan River.

Previous
reports *re*
insufficiency of
military forces.

The present strength of the Command is set forth in the accompanying State.

I have, &c.,

[Enclosures.]

RICHD. BOURKE.

[Copies of these papers are not available.]

LORD GLENELG TO SIR RICHARD BOURKE.

(Despatch No. 35, per ship John Barry.)

Sir, Downing Street, 7th Augt., 1835.

7 Aug.

I have received your Despatch No. 22 of the 8th February last, in which you report the Increase, from the 1st January last, of the Salary of the Clerk of the Works, Mr. Buchanan, and you recommend that an Allowance of 5s. per diem each should be granted to three of the Officers composing the Board of Works, in consideration of the extra services performed by them in that capacity.

Despatch
acknowledged.

With respect to the Increase of Mr. Buchanan's Salary, I must observe that it would have been more regular, if you had submitted his case for the consideration of His Majesty's Government before you authorised any addition to his Emoluments. Under the circumstances, however, stated in your dispatch, I shall not withhold my consent to the Salary of £350 a year, which you have assigned to him from the 1st January, until the period at which the revision of that branch of the Colonial

Salary for
clerk of works.

1835.
7 Aug.

Salary for
clerk of works.

Establishments may be effected by the Ordnance Officers, who, as you have already been informed, are to be stationed in the Colony. Mr. Buchanan must be given to understand distinctly that the augmentation of his Salary is sanctioned, subject to the conditions specified in your Minute on the recommendation of the Board of Works in his favor, and that it is not to be considered to give him a claim to any particular rate of Salary, in the event of his being selected for employment under the arrangements, which may be made by the Ordnance Officers.

Disapproval
of allowances
to members of
board of works.

I regret that I do not feel myself at liberty to sanction the Allowance, which you propose to issue to the Brigade Major, the Deputy Commissary General, and the Assistant Military Secretary, for their Services at the Board of Works; but, in consideration of the circumstances under which they were called upon to assume the superintendance of the Military and Convict Buildings, and of the very zealous and satisfactory manner in which they have performed the duties which thus devolved upon them, I have no objection to allow the payment to each of them of a Gratuity of £200 upon the termination of the Service, upon which they have thus been specially employed, by the transfer of the charge of the Buildings to the Ordnance Officers.

Gratuity to
be given to
members.

I am, &c.,

GLENELG.

SIR RICHARD BOURKE TO EARL OF ABERDEEN.

(Despatch No. 74, per ship Resource; acknowledged by lord Glenelg, 17th April, 1836.)

My Lord, Government House, 7 August, 1835.

Proposal for
erection of
building for
library and
museum.

In applying to your Lordship for permission to propose to the Council of this Colony the appropriation of money for the erection of a Building to serve as a Library and Museum and to be placed in connexion with the Sydney Botanical Garden, I have the great advantage of addressing a Minister who being himself a Member of several learned Societies is fully able to appreciate the value of Institutions formed for the promotion of Literature and Science. I may therefore I trust anticipate a favorable reply to the proposal I have now the honor to submit to your Lordship.

Australian
subscription
library.

There has been for some time established in Sydney a Subscription Library,* the members of which have lately become a joint Stock Company under the provisions of an act of the Govr. and Council. To this Act,* I beg leave to refer your Ldship. for the Regulations by which this Society is governed. It has hitherto been maintained entirely by private funds. On the

* Note 20.

retirement of my Predecessor from this Government, he directed that it should receive two small allotments* of ground in the Suburb of Sydney and a Building allotment within the Town, the former to be sold to procure some portion of the funds required to erect a Building on the latter, with the condition that the Building should contain rooms for the Colonial Museum† for which Collections on a small scale have been making for a few years past. This arrangement was subsequently approved by the Secretary of State.

1835.
7 Aug.

Allotments granted to Library.

It has been carried into effect so far as to give possession to the Society of the two suburb allotments, but I would beg leave to submit a different arrangement for the Building. I apprehend some difficulty in procuring suitable rooms for the Museum in the rooms, which the funds of the Society will enable them to erect, and it would be a novel and perhaps an imprudent measure to place the public property in a House over which the Government would have no other control than as a kind of a Lessee of a part of it. I consider therefore it would be more advisable to build a House for Library and Museum, and, cancelling the promise of a Building allotment to the Society, to allow them to place their Books in the Library and have the use and occupation of the Rooms composing it, with a condition that they shall, if required by a year's notice, vacate the Rooms, in which case they should receive a Building allotment in Sydney, or the value of one at this day which may be estimated at £330.‡

Objections to museum in building owned by library.

Building proposed for library and museum.

By the proposed arrangement, I might hope to Establish at once a convenient Institution for the study of Natural History and to lay the foundation of a public Library.

The cost of a suitable Building will not exceed four thousand pounds, the appropriation of which sum I beg permission to propose to the Council for this object.

Estimated cost of building.

I have, &c.,

RICHD. BOURKE.

LORD GLENELG TO SIR RICHARD BOURKE.
(Despatch No. 36, per ship John Barry.)

Sir, Downing Street, 8th August, 1835.

8 Aug.

I transmit to you herewith a statement which has been received at this Department from Messrs. Fleming and Hope, relative to the claim of Messrs. Reiby and Atkinson to compensation on account of the seizure of their Vessel the Eclipse by Government Convicts, while loading with Coals at Newcastle in New South Wales.

Statement of claims of J. H. Reibey and J. Atkinson for compensation.

* Note 20. † Note 21.

‡ Marginal note.—This is reported by Mr. Macpherson to be the price at which all except one of the allotments in Bridge Street recently sold.

1835.
8 Aug.

Decision by
R. Darling
re claims.

In your Dispatch of the 5th of January, 1833, you reported that General Darling, after an investigation of the claims* of Messrs. Reiby and Atkinson, had come to the decision that they should receive 640 acres of Land free of Quit rent, as a donation, in compensation for their Losses, but without acknowledging the existence of a claim. When the case was first brought before this Department, there did not appear to be anything to distinguish it from any ordinary case, in which injury might have been sustained from thefts committed by convicts; and it has always been held a principle to reject the idea of a claim to compensation existing under such circumstances, on the obvious ground that the general admission of such claims would tend to relax the exertions of the Settlers for the preservation of their Private Property; and on that view of the question were founded the former instructions from this Department. It is now, however, stated, on the Authority of certain Ship owners who were formerly engaged in the Coal Trade at Newcastle, and who have several times, as they represent, laden their Vessels with Coals there, that no private Vessel was ever allowed to employ their own men on such service, and that it was compulsory on the part of every Individual purchasing Coals to receive them in the Government Boats manned by Convicts.

Compulsory
employment
of convicts for
shipment of coal
at Newcastle.

Facts in
favour of
admission
of claim.

If, therefore, the Master of the Eclipse had no option but to employ the Government Convicts, who succeeded in carrying off the Vessel; and if that circumstance was not attributable to any remissness on the part of the Owners; and if, on the other hand, as is represented, the persons employed by the Government were particularly unfit to be trusted on such a service without more efficient control than that under which they were acting, it does appear to me that the Owners of the Vessel may in justice be considered to have a positive claim to compensation; I have, therefore, to request that you will further investigate this case with reference to the above mentioned circumstance; and, if you should be led to a different conclusion than that to which General Darling arrived, you will propose to the Legislative Council to consider the propriety of granting to the parties such compensation as might be considered fair and reasonable.

Compensation
to be granted
by legislative
council.

I am, &c.,
GLENELG.

[Enclosure.]

[This was a printed octavo pamphlet of twelve pages entitled "Statement of Facts," etc.]

UNDER SECRETARY HAY TO SIR RICHARD BOURKE.

1835.
9 Aug.

(Despatch per ship John Barry.)

Sir, Downing Street, 9th August, 1835.

I am directed by Lord Glenelg to transmit to you a copy of a Letter from Mr. Peter Dillon on the subject of his claim to be relieved from the charge incurred in recovering the Passengers and Letters from the Wreck of his Ship the "Phatisalam."

Claim by
P. Dillon
for refund of
charges for
recovering
passengers
and letters
from ship
Phatisalam.

Mr. Dillon states that, previous to his leaving London for New South Wales, he received an assurance that the Secretary of State would issue directions for refunding to him the amount, which he had been compelled to pay to the Government of New South Wales on account of that Service, together with the interest accruing thereon from the period of the payment. There is no record in this Department of an assurance to that effect having been given to Mr. Dillon, nor does it appear that the Secretary of State formed such a judgement as would warrant the conclusion that he at all contemplated issuing those Instructions. Under these circumstances, and as Lord Glenelg sees no reason for departing from the decision of his Predecessors, he can only direct that Mr. Dillon should be referred to my Letter to him of the 4th of November, 1830, and to Lord Howick's Communication of the 28th of November, 1831.

I am, &c.,

R. W. HAY.

[Enclosure.]

MR. P. DILLON TO RIGHT HON. T. SPRING RICE.

Sir, Sydney, Post Office, 27th Feb., 1835.

I beg you will excuse the liberty I take in addressing you on the following subject. I have a claim on the New S. Wales Govt., the Documents in support of which have been carefully examined by Mr. Stanley; prior to my leaving London in June last, I called on Mr. Lefevre, who informed me that the Secy. of State had agreed to my proposal, which was to give me an Order on the N.S.W. Govt. for the amount of my Demand, with Interest, which was for Two hundred and Forty five Pounds originally; this sum was forcibly torn from me through an error in judgment; I only want that Sum to be refunded. Mr. Lefevre told me to call on the Monday following for the Order; I had done so, and was informed by that Gentleman that Mr. Stanley had left office, and that you were to take charge in a few days; that the Order was to be forwarded to me here; it has not as yet arrived; my case is a just one; it was admitted to be so by that ablest of Lawyers Sir J. McIntosh, Lord Ellenborough, Lord Ashley, the Marquis of Graham, Sir John McDonald, and the Honble. C. Grant Member of the Board of Controul, who all concurred in opinion that my claim was a just one and a fit subject for the humane consideration of His M.'s Govt.; and that it lay with the Secy. of State for the Colonies to decide on it. From this opinion, in all England there was but one dissenting

Refund
promised by
secretary of
state.

Opinions in
favour of claim.

1835.
9 Aug.

Opinion
against claim.

voice, viz., that of Mr. Stephen, the legal adviser of the Colonial Office, who never took the trouble of reading my Documents, at a time when he recommended the affairs to be sent to the Board of Control, as it was unconnected with the Colonial Office. This young man's opinion, compared with that of the great Sir J. McIntosh, ought to have no weight; however it had; and I have been kept out of my money through it for more than 7 years.

Under these circumstances, may I beg the favor of your being so good as to direct the intentions of Mr. Stanley to be carried into effect, and you will much oblige, etc.,

PETER DILLON.

SIR RICHARD BOURKE TO EARL OF ABERDEEN.

(Despatch No. 78, per ship Resource; acknowledged by Lord Glenelg, 6th October, 1836.)

11 Aug.

Plan and
estimates for
additions to
Benevolent
asylum.

My Lord,

Government House, 11 August, 1835.

I have the honor to transmit a Plan and Estimate* of an addition to be made in the Buildings of the Benevolent Asylum at this place with a request that I may be permitted to defray the expence £1,380 10s. from the Military Chest. This Institution has hitherto been supported by voluntary contributions amounting to but a small part of the whole expence, and by warrants on the Chest. The latter part of the arrangement has resulted from the circumstance of the greater part, nearly the whole, of the Inmates of the Institution having been convicts. In my Despatch of the 13th January last, No. 4, I proposed to the Secretary of State for the reasons therein assigned that the expence of the Institution should be borne by the Colonial Treasury. Since the date of that Despatch, I have received instructions to propose to the Council to defray the whole charge for the Police and Gaol Establishments of the Colony from that fund. I therefore beg leave to recommend that the expence of the Benevolent Asylum may continue to be borne by the Military Chest. It may be considered as forming one of the Medical Establishments which the British Treasury is to support, most of the inmates of both sexes being not only paupers but sickly and aged.

I have, &c.,

RICHD. BOURKE.

LORD GLENELG TO SIR RICHARD BOURKE.

(Despatch No. 40, per ship John Barry.)

12 Aug.

Despatch
acknowledged.

Sir,

Downing Street, 12th August, 1835.

I have had under my consideration your Dispatch No. 30 of the 17th of February last, enclosing a Memorial from Mr. E. H. Cliffe for a Grant of Land under the old Regulations.

Application for
land grant by
E. H. Cliffe.

It appears that Mr. Cliffe, having imported Stock and Capital into New South Wales, made an application for a Grant in the Month of July, 1830, but was prevented from receiving Land

owing to the circumstance of his being then about to leave the Colony. It was, however, intimated to him that, if he should return and should renew his application, it would then be taken into consideration. He did not return until the Month of April, 1832, when, in the mean time, the Land Regulations had been altered.

1835.
12 Aug.

As Mr. Cliffe appears to have imported his Stock and Capital on the faith of the Regulations in force when he did so, and also to have made his final arrangements for settling in the Colony in consequence of the expectation, held out by your Predecessor, that his subsequent application would meet with consideration, I should have been disposed to have admitted his claim, had he brought it forward within a reasonable time; but, unless he can assign some adequate cause for his having delayed during two years to bring his case under the consideration of His Majesty's Government, it will be necessary that you should acquaint him that I cannot at this period of time authorize a departure in his favor from the General Regulations.

Qualified refusal
of request for
land grant.

I am, &c.,

GLENELG.

UNDER SECRETARY HAY TO SIR RICHARD BOURKE.

(Despatch per ship John Barry.)

Sir, Downing Street, 12th August, 1835.

I am directed by Lord Glenelg to transmit to you a Letter, which has been received at this Department from Captain Fyans of the 4th Regiment, containing an Application for the Appointment of Police Magistrate at New South Wales, as a reward for his conduct in checking the Mutiny, which broke out amongst the Convicts at Norfolk Island in the Month of January, 1834; and I am to request that you will return this Letter to the Secretary of State with any observations, which you may have to offer upon it, and that you will acquaint Captain Fyans that his Application should have come through you.

Application
by F. Fyans
for appointment
as police
magistrate.

I am, &c.,

R. W. HAY.

SIR RICHARD BOURKE TO EARL OF ABERDEEN.

(Despatch No. 79, per ship Resource.)

My Lord, Government House, 12 August, 1835.

I have the honor to transmit a printed copy of the Abstract of Revenue and Expenditure of this Colony for the past year together with an Explanatory Minute. The Estimates have been agreed to by the Council in the form of Resolutions* and the appropriation act has been printed but not yet passed. I avail myself of an opportunity to transmit the Estimates without waiting for the Act.

Transmission
of financial
statements.

* Note 24.

1835.
12 Aug.

Increase in estimates for expenditure.

The Minute* of which I transmit a copy is so full as to render it unnecessary to trouble your Lordship with much further explanation of the matters to which it relates. The amount both of the Supplementary and annual Estimate is unusually large, but it is occasioned, as your Lordship will perceive, by the larger Revenue placed by late Instructions* of H.M.'s Government under the appropriation of the Govr. and Council and the extended services for which they are required to provide. If, in conjunction with the minute now transmitted, your Lordship will refer to my Despatch of the 13th January last, No. 4, the expediency of the large Expenditure now proposed will be clearly made out.

Increased salaries for postmaster and collector of internal revenue.

On the Estimate of the Civil Establishment, I have ventured to place an additional sum of £100 to the Salaries of the Postmaster General and Collector of Internal Revenue. I trust your Lordship will not disapprove of these augmentations to the small incomes of deserving officers, holding very responsible situations in a Country where many of the prime necessities of life are rising in price.

Inability to transmit details of police and gaol expenditure.

The details of the Police and Gaol Expenditure are not given in the Estimates now transmitted. A Committee, consisting of two officers of Government and three Colonists, has had those details under consideration since the 18th May, but has not yet reported. I have little doubt that several additions to the Police Force will be shewn to be expedient, and that the Estimated sums will require to be wholly expended; and, considering how unexpected was the demand on the Colony to maintain these Establishments, and how much larger the sum required than was supposed by the Lords of the Treasury and Secretary of State, I have thought it necessary to allow the charge for the Mounted Police, composed entirely of the Military, and that for rewards paid for the apprehension of refractory Delinquent Convicts to be still borne by the Chest.

Charges borne by military chest.

Objections to expenditure on police and gaols.

A Petition very numerously signed was laid before the Council, praying that the whole expense of these Establishments might not be placed on the Colony, and that the revenues allotted to the encouragement of Immigration might not be diverted to another purpose. This Petition was warmly supported by several Members of the Council and the resolution for appropriating sums to the Support of the Police and Gaol Establishments was carried by a majority of one only. The Chief Justice, Military Officer next in command, four officers of the Government and one Colonist voted for the Resolution, and six Colonists against it. A protest will be entered, which will I believe be signed by *all* the Colonists in the Council.

For the next year the expense, I apprehend, may be borne without inconvenience; but I much doubt whether it can be continued without interfering very injuriously with other objects of public utility, which it is most desirable to promote. I refer especially to the Establishment of Schools for General Education and to the encouragement of Immigration. Both these measures are recommended as remedies to some part of the evil inflicted on this fair portion of the Globe by the constant influx of immoral and debased Individuals. Admitting fully the advantage obtained by the Colonists by the labor of Convicts, the benefits, experienced by Great Britain from the readiness with which they are disposed of here, will, I think, authorise the continuance of some part of the expence which they occasion as a charge on the British Treasury. It may be convenient, perhaps, that the financial control of the Police and Gaol Establishments should rest with the Colonial Legislature; but I would submit that an annual sum of not less than £20,000 should be defrayed from the Military Chest towards their support. In such case I would propose that the expense of the Mounted Police and that for Rewards, to which I before adverted, should be borne by the Colony, whilst that for the support of the Penal Stations and the management of the refractory Convicts in the Colony should continue as at present to be borne by the Military Chest. I shall wait with some anxiety for your Lordship's commands on the subject, hoping to be honored with them before the month of May of the next year.

1835,
12 Aug.

Possible effects
of expenditure
on police and
gaols.

Proposed annual
payment from
military chest
for police and
gaols.

Your Lordship will perceive that the sum of £30,000 has been appropriated to the encouragement of Immigration in the next year. The Colony having taken up this subject very warmly and feeling some cause for complaint arising from the very indifferent characters of many of the Females sent out from Great Britain at the charge of the Colony, I appointed a Committee of the Council to enquire and report upon the best means of encouraging the Immigration of moral and industrious Persons into New South Wales. The Committee has obtained a great deal of useful information on the subject but has not yet reported.

Appropriation
for
immigration.

Your Lordship will observe that I have taken the liberty to continue a charge for the Mounted Orderlies. Your Lordship's Despatch of the 10th March last, No. 30, was written before mine (of the 27th April last, No. 41), containing an Explanation of the formation and duties of this Squad, which will I hope justify my taking this step. In addition to the implied permission of Lord Goderich to keep up this Squad if composed of Soldiers from the Garrison, I find, by a letter from Mr. Under Secy. Hay to General Darling dated 20th July, 1827, that Clothing was sent out, by order of the Treasury, for the "Body Guard," a title

Maintenance
of mounted
orderlies for
governor.

1835.
12 Aug.

much too lofty for so trifling an Establishment. Should your Lordship still desire to put it down, it may be at once transferred to the Mounted Police, where the Troopers will be maintained with less Convenience and at the same expence.

I have, &c.,

RICHD. BOURKE.

[Enclosures.]

[Copies of these papers will be found in the "Votes and Proceedings" of the legislative council.]

SIR RICHARD BOURKE TO EARL OF ABERDEEN.

(Despatch No. 81, per ship Resource; acknowledged by lord Glenelg. 10th March, 1836.)

14 Aug.

My Lord,

Government House, 14 August, 1835.

To enable me to reply under the authority of the Secretary of State for the Colonies to claims, which may continue to be made by retired officers seeking Land in this Colony under the Regulations of the 15th August, 1834, I have the honor to transmit an Extract from the proceedings of the Executive Council on which a claim of Surgeon Peter MacArthur, a retired officer of the Land Forces, was considered, and to beg that I may be informed whether the decision of the Council is conformable to the intention of H.M.'s Government in framing the Regulation. Your Lordship will perceive that this gentleman claimed to obtain at 5s. an acre land which, having been bid up to 21s. at a public sale of Government and the deposit of 10 per cent. paid, was eventually not transferred to the Bidder, that Person having failed to complete the purchase within the prescribed time and forfeited the deposit. The Council are of opinion, in which I entirely concur, that the Regulation has reference only to Land which, having been put up at the upset price *and not bid for*, remains for Sale on the hands of Government. I will not take up your Lordship's time by shewing that, if the Regulation were understood as desired by Surgeon Macarthur, it would be open to practices injurious to the public interest.

Whilst considering the claim of Surgeon Macarthur, the Council adverted to the fact of long and expensive delays being experienced by Emigrants from Great Britain seeking land in the Colony. There is but a small portion of Land actually measured by order of Government and declared open for sale. Nor is the quantity of land, put up by desire of Individuals and not bid for by them or others on the day of sale, of any great extent. The great difference in the value of the Soil would render it inexpedient to measure considerable Districts upon the chance

Decision by executive council *re* claims of P. Macarthur to purchase land as naval settler.

Delays for immigrants in obtaining land.

of Sales, even if the strength of the Surveyor General's Department enabled the Government to effect such measurement. Persons seeking land upon their first arrival generally therefore proceed to inspect and choose the Land which will suit them. It might be some inducement to them to avoid the expence and trouble, if they were authorised to take land at 5s. an acre previously offered for sale at that price and still remaining on the hands of Government. The principle of competition would be sacrificed, but in many cases the benefit and convenience of the newly arrived Emigrant would be consulted, and thus a further encouragement offered to Emigration to these Colonies. During the last two years, the number of Emigrants arriving with Capital has been less than in the two first years succeeding the introduction of the sale of Crown Lands. Some further inducements to undertake the long voyage and give a preference to this Country over those nearer Home would seem necessary to stimulate British Adventure. If H.M.'s Govern't. should think well of the suggestion of the Council, it would be advisable to promulgate it at once from the Secretary of State's office. The quantity of Land thus to be obtained without competition should in no case exceed two sections or 1,280 acres to any one person, and the application for this advantage should be made within one month after the Emigrant's arrival in the Colony.

1835.
14 Aug.

Proposed permission for immigrants to purchase certain lands.

I have stated the quantity of Land advisedly and with reference to the measurement by sections and the advantage of water Frontage. In order that no Purchaser may obtain too great water-frontage with reference to the quantity of Land in the Section possessing such frontage, if it be found to contain less than 640 acres, the Purchaser is obliged to take the next back section along with it.

Restrictions re water frontage to lands purchased.

I have, &c.,

RICHD. BOURKE.

[Enclosure.]

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

LORD GLENELG TO SIR RICHARD BOURKE.

(Despatch No. 41, per ship John Barry.)

Sir,

Downing Street, 15th August, 1835.

15 Aug.

With reference to my Dispatch of the 13th Ultimo, relative to the Medical Department in New South Wales, I now transmit to you a copy of a further Communication from the Secretary to the Treasury upon the same subject with its various Enclosures; and I have to request that you will cooperate with the Medical Officer, who is to be attached to your Government, in establishing such Regulations as may be necessary to prevent

Instructions re medical department.

1835.
15 Aug.

Prevention
of abuses in
hospitals.

any undue application of the Public Medical Stores, and for ensuring a fair reimbursement to the Public for the expense of any Medicines or for Hospital accommodation furnished to persons not entitled thereto, either by the Regulations of the Army, or from the circumstance of their being Convicts employed and Maintained by the Government.

I am, &c.,
GLENELG.

[Enclosure No. 1.]

HON. J. STEWART TO UNDER SECRETARY HAY.

Sir, Treasury Chambers, 25th August, 1835.

Transmission
of papers *re*
medical
establishment.

I herewith transmit to you, by Command of the Lords Commissioners of His Majesty's Treasury, Copies of a Letter from the Secretary at War dated 6th instant and of its enclosures, and of the Letter of this Board dated this day in reply thereto, on the subject of the Establishment of Medical Departments in the Australian Colonies; and I am to request you will submit these papers to Lord Glenelg with reference to his Letter of 24th June last, and move his Lordship to convey the requisite Instructions thereon to the Governor of those Colonies.

I am, &c.,
J. STEWART.

[Enclosure No. 2.]

VISCOUNT HOWICK TO HON. J. STEWART.

Sir, War Office, 6th August, 1835.

Appointment
of officers for
medical
establishment.

With reference to your Letter of the 4th Ulto., respecting the appointment of Medical Officers to the Staff in New South Wales and Van Diemen's Land, with a view to superintend the Convict and Military Hospitals on those Stations, I have the honor to acquaint you, for the information of the Lords Commissioners of the Treasury, that the officers selected for these appointments will be gazetted tomorrow; but the Director General, in consequence of the ill state of health of two of the Officers he had previously selected, has been compelled to substitute two others; with reference therefore to my Letter of the 10th June last, I beg to inform you that the following is a correct statement of the names of the Officers and their present rates of half pay at which they will be borne on the Army Estimate and also of the rates of full pay, to which they will be respectively entitled:

Details
re pay.

Deputy Inspector General John Vaughan	s.	d.
Thompson—		
Half pay	17	0 a day.
Full pay	30	0 a day.
Difference to be paid out of Colonial Funds	13	0 a day.
Dy. Inspector General John Arthur—		
Half pay	14	0 a day.
Full pay	28	0 a day.
Difference to be paid out of Colonial Funds	14	0 a day.
Deputy Purveyors—		
Mr. Henry Clapp		
John Dunn	Half-pay each	5 0 a day.
	Full pay	9 6 Do.
Difference to be paid out of Colonial Funds, in each case	4	6 a day.

With reference to that part of your Letter in which you state that their Lordships concur with Lord Glenelg in thinking that it would be expedient to adopt some definite rule in regard to the supply of Medicines gratuitously to Public Servants, I have to transmit, for the information of the Board of Treasury, a Copy of a Letter from Dr. Gordon, with a Memorandum of proposed Instructions to the Medical Officers upon this point, in which it will appear that these officers are desired to put themselves in immediate communication with the Governors to ascertain the Classes of persons entitled to gratuitous assistance and to revise, in concurrence with him, all the existing regulations in this respect. The Officers will however be assembled in London and can receive Instructions from the Colonial Department on this and other subjects connected with their proposed duties in the Colonies; but, as Dr. Gordon's Letter states, further information will be required as to the description of persons, who are to be supplied with Medical aid. I am, &c.,

1835,
15 Aug.

Proposed
regulations
re gratuitous
medicines for
civil servants.

HOWICK.

[Enclosure No. 3.]

DR. GORDON TO MR. L. SULIVAN.

Sir, Army Medical Department, 25th July, 1835.

In the absence of the Director General, I have the honor to acknowledge the receipt of your Letter of the 22nd Inst., in reference to the Correspondence that has passed respecting the appointment of Medical Officers to superintend the Convict and Military Hospitals, in New South Wales and Van Diemen's Land, and enclosing Copies of a Communication from the Treasury with the enclosures therein referred to, from which it will appear their Lordships approve of the Instructions proposed to be given to those Officers and of the substitution of Deputy Purveyors for Apothecaries, but desiring, as suggested by Lord Glenelg, that some definite rule may be laid down in regard to the supply of Medicines gratuitously to Public Servants, and that some additional Instructions to this effect may be prepared for the guidance of the Officers. In return, I have the honor to state, for the information of the Secretary at War, that the necessary steps will be taken as to the appointment of the Medical Officers, as also directed in your Letter.

And, in reference to the "further Instructions on the subject of the supply of Medicines to public Servants," respectfully to submit that, with the limited information which I possess as to the various grades and castes of persons who may come under the denomination of public Servants in such a Colony, it is not in my power to draw up a more defined Rule for the issue of these Stores, until I have been favoured with the Instructions of the Government as to the Classes of Persons to whom it is their pleasure a gratuitous supply of Medicines shall be permitted, but in accordance with the spirit of the Instructions already submitted by the Director General and approved, and with the view of giving as much effect as possible to the suggestion of Lord Glenelg on this matter.

I beg to submit the Instructions laid down in the enclosure, which, when approved, shall be added to those which have already been laid before his Lordship.

I have, &c.,

THEODORE GORDON, M.D.,

Asst. Inspector of Hospitals.

[Enclosure No. 4.]

INSTRUCTIONS referred to in the Letter from the Army Medical Department, dated 25th July, 1835.

1835.
15 Aug.

Proposed
instructions
re gratuitous
treatment and
medicines.

"YOUR attention is particularly drawn to the classes of persons to whom Hospital Accommodation, Medical Aid or Medicines from the Government Stores has been hitherto afforded at the Public Expense, with the view that the Regulations on this subject, till now acted upon in the Colony, may be revised and more particularly defined, under the sanction and with the concurrence of His Excellency the Governor, as well to ensure the repayment of the Money, stipulated for such assistance, as to prevent improper and impropident persons from taking advantage of this Country.

"You will in the first place be pleased to send home a copy of the Regulations now in force in the Colony on this subject, with a Classified List of Persons of all denominations receiving Hospital Accommodation, Medical Aid, or Medicines from the Government Stores, with the terms and regulations, under which they enjoy these advantages; and, as soon as you can, you will transmit a special Report on the matter in question with such observation and new Regulations as may be agreed upon and stating the grounds for any changes you may have to suggest."

[Enclosure No. 5.]

HON. J. STEWART TO SECRETARY AT WAR.

My Lord,

Treasury Chambers, 25th August, 1835.

Approval of
instructions
proposed.

I have laid before the Lords Commissioners of his Majesty's Treasury your Lordship's Letter of the 6th Instant, stating the names of the Officers who have been appointed to the Medical Department in New South Wales and Van Dieman's Land, and transmitting proposed Instructions to be given to them; and I am commanded to acquaint you that My Lords are not aware that any more explicit Instructions can at present be given to the Medical Officers about to proceed to those Colonies upon the subject, to which the Communication from this Office of the 4th Ulto, and Your Lordship's Reply now before them have reference; and My Lords will request the Secretary of State to desire the Governors to cooperate with the Medical Officers for the Establishment of such Regulations as may be requisite to prevent any undue application of the Public Medical Stores, and for ensuring a fair reimbursement to the Public for the Expense of any Medicines or Hospital Accommodations furnished to Persons, not entitled thereto, by the Regulations of the Army or as Convicts employed and maintained by the Government.

I have, &c.,

J. STEWART.

LORD GLENELG TO SIR RICHARD BOURKE.

(Despatch No. 42, per ship John Barry.)

Downing Street, 18th August, 1835.

18 Aug.

Sir,

Letters patent
issued to
establish
bishopric of
Madras.

I transmit to you herewith a copy of a Letter from the Secretary to the East India Board of Control, intimating that His Majesty had, under the powers vested in him by the 3d and 4th W. 4, Cap. 85, caused Letters Patent to be passed under the Great Seal, by which the Presidency of Madras, the Island of

Ceylon and the Colonies of New South Wales and Van Diemen's Land have been dissevered from the Diocese* of Calcutta, and erected into a separate See called the Bishoprick of Madras; and I have to request that you will take the necessary measures for causing the Ecclesiastical Jurisdiction of the Bishop of Madras to be duly recognised within the Colony under your Government.

I think it proper to add that this arrangement will not in any way interfere with the consideration of the question of creating a Bishopric in the Australian Colonies.

I am, &c.,

GLENELG.

[Enclosure.]

MR. R. GORDON TO UNDER SECRETARY HAY.

Sir,

India Board, 14th July, 1835.

I am directed by the Commrs. for the Affairs of India to acquaint you, for the information of Lord Glenelg, that His Majesty, under the Powers vested in him by the 3d and 4th W. IV. Cap. 85, has caused Letters Patent to be passed under the Great Seal, by which the Presidency of Madras, the Island of Ceylon and the Colonies of New S. Wales and Van D. Land have been dissevered from the Diocese of Calcutta, and erected into a separate See called the Bishoprick of Madras; and I have to request that this information may be transmitted to the Colonies above mentioned, in order that the Bishop's Ecclesiastical Jurisdiction may be properly recognised.

I am &c.,

R. GORDON.

1835.
18 Aug.

Transfer of colonies from diocese of Calcutta to new bishopric.

Erection of bishopric of Madras.

SIR RICHARD BOURKE TO EARL OF ABERDEEN.

(Despatch No. 82, per ship Resource; acknowledged by lord Glenelg. 17th March, 1836.)

My Lord,

Government House, 18 August, 1835.

The continued deficiency of the Military Chest at this station arising from the little demand for Treasury Bills, which I have upon more than one occasion made known to the Secretary of State for the Colonies and the Lords Commrs. of H.M.'s Treasury, has again compelled me to obtain from the Council the appropriation of Fifty Thousand Pounds to the Military Chest from the Colonial Funds. This sum, like the former of Fifty Thousand Pounds also, has been lent on the Security of Bills drawn on the British Treasury by the Deputy Commissary General. In addition to these loans of fifty thousand Pounds each, there is a further sum of ten thousand pounds lent from the Land Revenues to the Commissariat, making in all the sum of one hundred and ten thousand pounds now due to the Colonial Treasury.

Upon passing the act† authorising the last loan, the Council desired to express an opinion upon the necessity of obtaining payment immediately of the debt of the British Government, and that measures should be adopted for speedily liquidating the

Loans to military chest from colonial treasury and land revenues.

Opinion of legislative council in favour of prompt repayments.

* Note 26.

† Note 27.

1835.
18 Aug.

Opinion of
legislative
council in
favour of
prompt
repayments.

whole and securing the supply required by the Military Chest in some more effectual manner. I have the honor to transmit a Copy of the Resolutions which the Council passed on the occasion. Your Lordship will perceive that I have been requested to transmit the Bills first issued, amounting to fifty thousand pounds for immediate payment in British silver to be sent out by the first favorable opportunity. I have accordingly endorsed these Bills to the order of Mr. Edward Barnard, the Colonial Agent General, and have the honor to forward them in a letter to him under this cover. The appointment of the Agent being made by H.M.'s Government and being ignorant whether any security has been given by him, I have not thought it right to place directly in his hands the means of obtaining so large a sum of money without first stating the fact, and requesting your Lordship to take such steps as shall seem proper for procuring the safe and speedy remittance of the silver to the Colony. I have accordingly put the accompanying letter to Mr. Barnard containing the Bills under a flying seal.

Previous request
for shipment
of specie.

In my Despatch of the 15 Octr., 1834, No. 105, communicating the first loan of fifty thousand pounds, I requested that specie might be sent out to redeem the Bills then taken to that amount. If, in compliance with this request, H.M.'s Government shall have made that remittance, there are still Bills here to the amount of fifty thousand pounds to be redeemed.

I take this opportunity of acknowledging the receipt of your Lordship's Despatch of the 20th Decr. last, No. 1. The measures therein authorised will afford but a trifling aid to the Military Chest, and were never contemplated by me as likely to supply the deficiencies which the state of the Exchange between Great Britain and the Colony has induced.

I have, &c.,

[Enclosures.]

RICHARD BOURKE.

[These were a series of bills drawn by James Laidley and the resolution, passed by the legislative council on the 18th of August, 1835, in reference to the funds of the military chest, extracted from the "Votes and Proceedings" of the legislative council.]

SIR RICHARD BOURKE TO EARL OF ABERDEEN.

(Despatch No. 83, per ship Resource; acknowledged by lord Glenelg. 6th March, 1836.)

My Lord,

Government House, 18 August, 1835.

At the request of Mr. Carter, who was removed in the year 1832, on account of Insolvency, from the office of Master of the Supreme Court and the Commission of the Peace, I have

the honor to transmit, for Your Lordship's consideration and commands, a letter which he has addressed to me, soliciting that he may be restored to the Magistracy, with a view to his becoming a candidate for the office of Chairman of the Quarter Sessions, which is held by the annual suffrages of the Justices of the Colony under the provisions of a local act.*

1835.
18 Aug.

Request for restoration of W. Carter to magistracy.

By the Instruction under which Mr. Carter was removed from office (contained in Lord Goderich's Despatch of the 30th July, 1831, No. 8) it appears intended that the fact of becoming Insolvent in this Colony should disqualify for public employment. I have not therefore considered myself at liberty to accede to Mr. Carter's application.

Refusal of request.

The case of Mr. Percy Simpson referred to in Mr. Carter's letter is not exactly in point. That Gentleman, although declared an Insolvent at the period referred to and deprived of the Commission of the Peace for a time, was never removed from his employment as an Assistant-Surveyor and was reinstated in the Commission on the certificate† of his Creditors stating that he had paid them all in full. This restoration took place before the receipt in the Colony of the Despatch of Lord Goderich before referred to, and, upon a representation to His Lordship of the foregoing facts, he authorised the continuance of Mr. Simpson in office.

Restoration of P. Simpson to magistracy.

I have no inclination to refuse Mr. Carter's request, should it not appear to Your Lordship to be necessary to continue the restriction under which I am at present placed with regard to him and others similarly situated. Mr. Wilson, formerly Director of public works, whose memorial I have lately forwarded to your Lordship asserting a grievance of another kind, is one of these, as is a Mr. Bate formerly Surveyor of Distilleries. If the disqualification is removed from one, it must be from all.

Status of officials removed for insolvency.

Mr. Carter has been admitted to practise as a Barrister in the Supreme Court since his Insolvency, and in this capacity and in that of a conveyancer is conducting, as I am informed, a very respectable business. I am unable to say that he has discharged all his obligations in full, but I have no reason to believe that he has had the power of so doing, had he been so inclined.

Admission of W. Carter as barrister.

I have, &c.,

RICHD. BOURKE.

P.S.—Since the above was written, Mr. Carter has handed me the document which I have the honor to transmit herewith in addition to his letter before mentioned.

[Enclosures.]

[Copies of these papers are not available.]

1835.
18 Aug.

SIR RICHARD BOURKE TO EARL OF ABERDEEN.

(Despatch No. 84, per ship Resource; acknowledged by lord Glenelg, 26th February, 1836.)

My Lord, Government House, 18 August, 1835.

Referring to my Despatch of the 26th ultimo, No. 70, in which I have solicited instructions as to the amount of Salary to be paid to Mr. Francis Fisher, lately appointed Crown-Solicitor of this Colony by the Secretary of State, I have now the honor to forward Copies of Letters since addressed to the Colonial Secretary by Mr. Fisher, urging, on the grounds therein stated, a claim to half-salary from the date of his embarkation. Having represented in my Despatch of 24 Janry., 1834 (No. 7), on the Nomination of Mr. Chambers, that I had authorized his receiving the full salary of the office during the time he was to fill it (as it was not possible to procure a competent person at a lower rate of pay), it follows that there is now no available fund from whence to issue to Mr. Fisher the half Salary he was led to expect.

I have therefore to request that I may be honored with your Lordship's Commands whether any, and, if so, what allowance is to be paid to Mr. Fisher from the Colonial Treasury for the period occupied by his passage.

I have, &c.,

RICHD. BOURKE.

[Enclosure No. 1.]

CROWN SOLICITOR FISHER TO COLONIAL SECRETARY MACLEAY.

Sir, Crown Solicitor's Office, Sydney, 8th August, 1835.

I do myself the honor to request that you will lay before His Excellency the Governor my application for the usual allowance of Salary for the time occupied in my voyage out.

I understand this allowance has been generally granted to Civil Officers coming out.

It has been observed that, inasmuch as my Predecessor received the whole Salary of £500 a year, the Governor could not authorise the payment of a Salary to two officers. I would most respectfully however beg leave to observe that at all events, my Salary having been fixed at £800 per annum, I may with reason hope to receive the difference between those amounts; and as, in addition to my loss of time during the voyage, I had necessarily to incur a considerable expense in my outfit, etc., and further as, with a view the more efficiently to perform the duties of my office, I laid out a large Sum in the completion of my Law Library, I trust His Excellency will, seeing the reasonableness of my request, do me the honor to recommend it for the favorable consideration of the Secretary for the Colonies.

I have, &c.,

FRANCIS FISHER, Crown Solicitor.

[Enclosure No. 2.]

CROWN SOLICITOR FISHER TO COLONIAL SECRETARY MACLEAY.

Sir, Crown Solicitor's Office, Sydney, 15th August, 1835.

I find, in referring to my letter of the 8th instant, requesting the usual allowance for the time occupied in my voyage out, that

Claim of
F. Fisher to
half salary
from date of
embarkation
in England.

I have omitted to state for His Excellency's information my having understood from Mr. Short that on my arrival here instructions would be forwarded, directing the usual allowance which had been made to other Civil officers, and I understood that allowance would be half Salary.

1835.
18 Aug.

Claim of
F. Fisher to
half salary
from date of
embarkation
in England.

I find it has always been the Custom here to allow the difference between the actual Salary, paid to the Gentleman holding the office pro tempore, and that allowed for the office.

I beg to express my regret that I am thus obliged to give His Excellency trouble; but I trust that the very unpleasant situation, in which I am placed from the absence of instructions, which I was informed had actually been despatched, will be a sufficient excuse for my anxiety.

I have, &c.,

FRANCIS FISHER, Crown Solicitor.

LORD GLENELG TO SIR RICHARD BOURKE.

(Despatch No. 43, per ship John Barry.)

Sir, Downing Street, 19th August, 1835.

19 Aug.

I transmit to you herewith an Extract of a Letter which I have received from the Governor of the Australian Company, containing a representation with regard to the insufficient supply of Convicts which they have hitherto received from your Government.

Transmission
of complaint by
A.A. company
re insufficient
supply of
assigned
convicts.

I am well aware of the general demand for Convict labor in New South Wales, and of the difficulty which you experience in meeting that demand; but if, as the Company state, their claim to Convicts has not met with that attention which has been shewn to Applications of a like nature from Private Settlers, it does appear to me that the Company have some ground of complaint. Without, therefore, shewing any undue preference to the Company in this respect, I should wish that they should receive the full number of Assigned Servants to which they are entitled, and which it may be practicable to grant to them without prejudice to the just demands of Individuals. It is the more reasonable that the Company should receive every fair consideration, because by the terms of the Charter they were bound to maintain, and, therefore, naturally led to expect that they should have a considerably greater number of Convicts than that which it has ever been found practicable to assign to them. I am, &c.,

GLENELG.

[Enclosure.]

EXTRACT of a letter from the Govr. of the Australian Company to the Rt. Honble. Lord Glenelg, dated 7 July, 1835.

"THE Second point is earnestly to request your Lordship to give such Instructions to the Local Govt., as to secure to the Company a due assignment of Convicts in some proportion to the quantity of Land they occupy, and the Capital, more than £300,000, which they have expended on that Land.

1835.
19 Aug.

Claim by
A.A. company
to assignment
of convicts.

"The Directors stated to your Lordship, at the late conference, that so unequal has been the distribution of Convicts that, during the period of 15 months ending 31st July, 1833, out of 5,020 Convicts imported within that time into the Colony, the number assigned to the Company has been only 30, of which number 17 were boys.

"Another fact will prove still more plainly the unequal distribution of the Convicts. The Compy. have been informed, on authority to *which they give full credence*, that the private Settlers in general have at present a larger number of Convicts than they had in the year 1831; whilst the Company had in the year 1834 sixty seven Convicts less in number than they had in the year 1831.

"In the year 1831 their numbers were 402

"In the year 1834 335

And this diminution of 67 Convicts has taken place while their Flocks and Herds have largely increased, requiring consequently a proportionate encrease of men to look after them.

"I trust that your Lordship will feel, on this simple representation of our case, that the Claims of the Company are founded in equity, and that, considering the Company merely as Settlers, their application for Convict Labour must be entitled to the favorable consideration of the Local Govt. in proportion to the immense Capital wh. they have so usefully expended in the Colony; a claim which is greatly strengthened by the Provisions of the Company's Charter, under which, at a time when the Support of the Convicts was felt *as a heavy Burthen by Govt.*, the Company undertook, at a great risk to themselves, to employ a very large number, and thus to relieve the Govt. from a very heavy annual expense.

"When, therefore, owing to the greatly increased occupation of Land in the Colony, and the consequent increased demand for Labor, Convict Labor has become generally sought for by all occupiers of Land in Australia, The Company appear to have a peculiar claim on the Govt. for any advantages derivable from the Assignment of Convict Laborers, inasmuch as, had no such encreased demand for Labour arisen, and had the heavy expense to the Govt. of providing for the Convicts in the Colony continued, the arrangements, entered into with the Company as contained in their Charter, wd. have been the means of relieving the Govt. from a large proportion of that Charge; I trust therefore that your Lordship will be of opinion with the Directors, that this fact alone gives the Company an unanswerable claim for a *liberal* proportion, in the distribution of Convicts, under the altered circumstances of the Country."

LORD GLENELG TO SIR RICHARD BOURKE.
(Despatch No. 44, per ship John Barry.)

22 Aug.

Sir,

Downing Street, 22d August, 1835.

Despatch
acknowledged.

I have to acknowledge the receipt of a Dispatch No. 116, which you addressed to my Predecessor on the 30th of October last, returning an Indent of the Convicts sent out to New S. Wales by the Ship "Eliza" in the year 1829, in order that it might receive the necessary insertion of the dates of Trial of

the Prisoners to whom it referred; and I have now the honor to restore to you this Document which has been received in its perfected State from the Secretary of State for the Home Department.

I am, &c.,

GLENELG.

1835.
22 Aug.

Indent of
convicts *per*
ship *Eliza*.

LORD GLENELG TO SIR RICHARD BOURKE.

(Despatch No. 45, per ship John Barry.)

Sir, Downing Street, 28th August, 1835.

28 Aug.

I have received your Dispatch No. 39 of the 23d of March last, enclosing a Letter from Captain Fyans of the 4th Regiment, soliciting the appointment of Police Magistrate and a Grant of Land in New South Wales, in consideration of his exertions in quelling the late disturbance at Norfolk Island.

Request by
F. Fyans for
appointment
as police
magistrate and
land grant.

I am happy to find, from your dispatch, that there was a prospect of your being able to reward the Services of that Officer, by detaching him to a post where he will enjoy certain advantages; but I must leave it to you to consider, how far it may conduce to the Public interests to employ Captain Fyans permanently as a Police Magistrate. With regard to the Grant of Land which he is desirous of obtaining, I regret that I do not feel myself at liberty to comply with that part of his application.

I am, &c.,

GLENELG.

UNDER SECRETARY HAY TO SIR RICHARD BOURKE.

(Despatch per ship John Barry.)

Sir, Downing Street, 29th August, 1835.

29 Aug.

I am directed by Lord Glenelg to transmit to you a copy of a Letter from the Secretary to the Treasury with a Copy of a Report from the Commissioners of Audit on the cash Account of Deputy Commissary General Laidley for the month of September, 1834; and I am to call your attention to the observations of the Auditors with regard to the irregularity of the additional payment made to the Contractor for the Buildings at Goulburn's Plains, and to request that you will adhere more closely in future to the Treasury regulations for limiting charges of this description.

Criticism *re*
payment for
buildings at
Goulburn
plains.

I am, &c.,

R. W. HAY.

[Enclosure No. 1.]

HON. J. STEWART TO UNDER SECRETARY HAY.

Sir, Treasury Chambers, 27 August, 1835.

I am commanded by the Lords Commrs. of His M.'s Treasury to transmit herewith copy of a Report from the Commrs. of Audit, dated 28th Ulto., on the Cash account of Deputy Commissary Genl.

1835.
29 Aug.

Criticism re
payment for
buildings at
Goulburn
plains.

Laidley at New S. Wales, for the month of Sepr., 1834; and to request you will submit the same to Lord Glenelg, and will observe to his Lordship that my Lords concur in the opinion expressed by the Auditors, more especially as regards the irregularity of the additional payment to the Contractor for the Building at Goulburn Plains being made without the previous authority of my Lords' Board or the Secretary of State; and, although my Lords are disposed to abstain from directing the Disallowance and surcharge of the payment authorised by Major Genl. Bourke in this instance, they conceive it will be desirable that a communication should be made to that Officer in the terms suggested by the Auditor.

I am, &c.,
J. STEWART.

[Enclosure No. 2.]

COMMISSIONERS OF AUDIT TO LORDS COMMISSIONERS OF TREASURY.

My Lords,

Audit Office, 28th July, 1835.

Charge for
erection of
hospital and
surgeon's
quarters at
Goulburn
plains.

We have the honor to state to your Lordships that, upon the Inspection in this Office of the Cash Account of Deputy Commissary Genl. Laidley at New S. Wales, for the month of Sepr., 1834, we have noticed a charge of £111 12s. 6d. for additional payment to Andrew Gibson for building a Hospital and Surgeon's Quarters at Goulburn's Plains, the circumstances attending which we beg leave to bring under your Lordships' consideration.

Contract for
erection of
buildings.

It appears from Documents mentioned in the Margin* that Mr. Gibson entered into a Contract, under the authority of the Major General Commanding, to erect the Buildings above described for the sum of £160, and that, upon a representation of the advantages that wd. attend the roofing of them with shingles instead of Bark, as at first contracted for, the Major General sanctioned the additional Sum of £40 for that alteration; and the full sum of £200 was accordingly paid to Mr. Gibson for the work.

Request by
A. Gibson for
extra payment.

Upon the completion of the Buildings, it appears Mr. Gibson made application to the Deputy Commissary General for additional Remuneration, on the grounds that he had expended much more than the amount of his Contract; that he had gone beyond the terms of his engagement in making several material alterations and additions to the Building; and that, being inexperienced in such undertakings, he had formed a very erroneous Estimate of the cost of Materials and Labor. This application having been laid by Mr. Laidley before the Board of Works at Sydney, it was referred to the Clerk of Works, Mr. Buchanan, to state the amount that would in his opinion adequately remunerate Mr. Gibson; and, upon his valuation of the Buildings, namely £311 12s. 6d., the Board of Works recommended the payment of the additional sum of £111 12s. 6d. beyond the £200 already paid to Mr. Gibson, which Major Genl. Bourke has sanctioned. We beg to observe to your Lordship that, by the 36 clause of Instructions, dated 13 June, 1826, from your Lordships' Board to the Govr. of New S. Wales, that officer is authorised to incur Expenditure such as for the Construction and repairs of Public Buildings, when the amount is under £200 upon his own responsibility, explaining at the same time the absolute necessity of the Work; In pursuance of which

Extra payment
approved.

* *Marginal note.*—Voucher 138 of Mr. Laidley's Acct. for May, 1834. Voucher 242 of do. for July, 1834, and papers accomp. the present Voucher.

Instruction, we submit that Major Genl. Bourke shd. have reported to your Lordships, or the Secretary of State, the circumstances under which he deemed it necessary to sanction in the first instance the erection of the Buildings in question; and it appears to have been especially incumbent on the Major General to report the additional payment in the shape of compensation to the Contractor, whereby the total cost of those Buildings is made to exceed the discretionary limit fixed by the Instructions above referred to. We cannot, however, after diligent enquiries made at your Lordships' Office and that of the Colonial Secy. of State, discover that any communication had been made by the Govr. on the subject.

1835.
29 Aug.

Neglect of
Sir R. Bourke
to submit
report.

Supposing that a pressing necessity for undertaking the work might exist on account of the public Service, the same necessity cannot be pleaded for the additional payment to the Contractor, whose claim, if a just one, could have suffered no prejudice from being referred to your Lordships' consideration; And we submit that there would be serious objections to admitting the principle that claims of Contractors to compensation should be settled on the spot by the very parties, with whom or under whose directions the Contracts are made.

Objections to
extra payment.

In the first place, we may remark that your Lordships have at different times laid down certain principles by which Compensation should in such cases be governed; and that those principles could not be adhered to, unless the decision upon claims of this nature were to emanate from the same source as that wh. prescribed the rule whereby they are to be governed. Your Lordships' Minute of 25th June, 1830 (9511), contains a Record of the opinion of your Lordships' Board upon the subject of such claims; and we conceive there is great reason to doubt, whether, applying the principles contained in that Minute to the present case, your Lordships would have granted indemnity to the extent sanctioned by Major Genl. Bourke, namely to the full estimated value set upon the Buildings by one Individual, Mr. Buchanan, the Clerk of the Works, at whose suggestion it appears, from Mr. Gibson's letter to the Depy. Commissary Genl., several of the alterations, forming in part the ground of the additional payment, were made.

Principles laid
down for
granting
compensation.

It may be further observed that, if one of the pleas set up in the present instance, namely, that the Contractor had expended much more than was contemplated, owing to Improvements and Additions to the original design of the Work, were to be admitted, it might create a precedent for indefinite Expenditure, beyond what was originally sanctioned or intended, thereby effectually defeating one of the main objects of previous Estimate, as well as that of the discretionary limit imposed by Your Lordships' Instructions upon the Govt. of New S. Wales. In the present case, no authority is adduced for any of the alterations and additions to wh. Mr. Gibson's letter to the Depy. Commissy. Genl. refers, except for that already mentioned of substituting Shingles for Bark in the roofing of the Buildings.

Possible
precedent for
claims for
indefinite
expenditure.

It is not our object, in submitting to your Lordships the foregoing observations, to suggest that any Surcharge shd. be made on account of the payments in question. We are aware that the peculiar circumstances of the Colonies of Australia create the necessity of reposing a certain latitude of discretionary power in

Surcharge
not proposed.

1835.
29 Aug.

Necessity for
reports by
governors.

the Officers admin'g the Govt. and that especial cases must frequently arise, which render it expedient to avoid the delay consequent upon a reference to this Country. It is however, we submit, at the same time incumbent upon the Governors of those Colonies to report to your Lordships or to the Colonial Secy. of State all cases wh. may render Expenditure of this description necessary; and we beg leave to submit that, with the view of guarding against a repetition of circumstances similar to those herein noticed, it wd. be proper for your Lordships to cause a communication to be made to M. Genl. Bourke to the effect of the observations we have deemed it our duty to offer to your Lordships on the present occasion.

We have, &c.,

F. S. LARPENT.
J. WHISHAW.
W. H. HERRIES.

LORD GLENELG TO SIR RICHARD BOURKE.
(Despatch No. 46, per ship John Barry.)

31 Aug.

Sir,

Downing Street, 31st August, 1835.

Inquiry re
complaints of
convicts against
J. Mudie.

I have received your Dispatch No. 94 of the 20th of September last, with its several Enclosures, containing the result of an investigation which you had thought it right to institute into the truth of a statement made by certain Convicts formerly the Assigned Servants of a Settler named Mudie, to the effect that they had suffered continued ill treatment from Mr. Mudie and from the Magistrates of the Hunter's River District.

Approval
of inquiry.

Considering the circumstances under which that accusation was made, I certainly think that it was highly necessary, both on Public grounds and also in fairness to the Individuals whose conduct was thus attacked, that the alleged circumstance should be fully investigated, and you appear to have adopted the most proper mode of arriving at the truth. I do not, therefore, perceive that Mr. Mudie has any ground for claiming the interference of this Department, particularly as the result of the investigation appears to have been to remove at least a considerable portion of the doubt, which the declaration of the Convicts on their Trial was calculated to cast upon him. And, with regard to the Pamphlet* which that Gentleman was desirous that you should send home, there clearly was no necessity for your making yourself the medium of communicating a Publication of that description. It may however be proper that, in communicating to Mr. Mudie the opinion which I have formed of the merits of this question, you should take the opportunity of acquainting him that his Printed Statement, together with the Letter which transmitted it, have been received at this Department.

Refusal of
request of
J. Mudie.

Pamphlet and
letter received
from J. Mudie.

I am, &c.,
GLENELG.

SIR RICHARD BOURKE TO EARL OF ABERDEEN.

(Despatch No. 85, per ship Andromeda; acknowledged by
lord Glenelg, 14th March, 1836.)

1835.
1 Sept.

My Lord, Government House, 1 Sept., 1835.

I have the honor to forward a Memorial from Mr. Thomas Cudbert Harington, praying for a grant without purchase of 6,600 acres of Land on the grounds therein set forth.

Transmission
of memorial
from
T. C. Harington.

The Memorial is so full as to require no addition from me, and I have every reason to believe the facts are correctly stated.

My own impression, upon reading Mr. Hay's Letter of the 22 February, 1826, was that it meant to confirm to Mr. Harington the 6,600 acres of which Sir Thomas Brisbane had ordered him possession, or, if he had not taken possession, to authorise his receiving that quantity, subject to the conditions of tenure in force at the time Mr. Hay wrote and General Darling's good opinion.

Interpretation
of instruc-
tions by
Sir R. Bourke;

General Darling gave to the letter a different interpretation. For Your Lordship's information and to save further reference, I have the honor to transmit a copy of Mr. Hay's letter with its enclosures, and of General Darling's minute thereon, together with the report of the Land Board on this case.

and by
R. Darling.

I have, &c.,
RICHD. BOURKE.

[Enclosure No. 1.]

THE Memorial of Thomas Cudbert Harington, Assistant Colonial Secretary of New South Wales,

Memorial of
T. C. Harington
soliciting
land grant.

To The Right Honorable The Secretary of State for the Colonies, etc., etc.

Showeth,

That your Memorialist arrived in this Colony a Free Emigrant from India in the Month of June, 1820.

That, in the year 1823, he sold his property in India for the Sum of £6,600, the whole of which was remitted to him in this Country, and formed (it is believed) the largest Money Capital that had then been introduced by any single Individual.

That, on 30th December, 1823, and again on 28th June, 1825, he memorialised the Right Honorable Earl Bathurst, then Secretary of State for the Colonies, soliciting a Grant of one acre of land for every Pound Sterling of Capital introduced, according to the precedent of such very few instances, as had occurred, in any way analogous. His Excellency Sir Thomas Brisbane so far acquiescing in the claim of your Memorialist, as to allow his provisional occupation of 6,600 Acres.

That, on 22nd February, 1826, Lord Bathurst virtually ordered a compliance with your Memorialist's request on condition (in substance),

1st. That his Statements were correct.

2d. That he had not already received a Grant to the extent solicited; and

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1 Sept.

3d. That the "Capital at his disposal gave him a fair claim to the land in question."

Memorial of
T. C. Harington
soliciting
land grant.

That, on the 6th April, 1827, the Land Board, having fully investigated the case, reported in substance,

1st. That your Memorialist's Statements were strictly correct.

2d. That, as far from having already received a Grant of the extent solicited, he did not then hold a single acre from the Crown.

3d. That the Original Capital *could not* be still at his disposal, because, as distinctly stated by him in his Memorial of June, 1825, he had vested the greater part of it in the (private) purchase and improvement of land.

4. That they considered him entitled to 6,600 Acres, and recommended accordingly that this quantity should be granted to him, subject to the approval of the Secretary of State.

That His Excellency General Darling, however, did not feel Himself at liberty to consider *Land and Improvements* as *Capital*, and declined therefore giving your Memorialist more than a Grant of 4 Sections, or 2,560 Acres; with a Reserve for purchase, 6 Sections, 3,840 Acres; Total, 6,400 Acres, assigning as a reason that, "if the principle that Money laid out in the purchase or improvement of lands were to be considered as Capital, giving claim to additional Land, it is evident the claims of the Great Landholders would be boundless."

That, on 24th April, 1827, Your Memorialist submitted, in reply to the foregoing, that an Application for Additional Lands, founded on Capital *acquired in the Colony* by means of land previously granted, differed essentially from a claim for an Original Grant, resting (like his) on Capital *imported* from abroad. But His Excellency retaining his first opinion, and your Memorialist then filling the Situation which he has still the honor to hold, he judged it more becoming to abstain from further remonstrance, the more especially as an opinion was at that time very generally entertained that the conditions for the disposal of land then published would not eventually be put in force.

That, on 22nd September, 1830, being pressed for a fulfilment of those conditions, your Memorialist submitted,

That he was perfectly satisfied (as he still is) of General Darling's desire to do him full justice.

That nevertheless the decision given was really unjust, and in its effects most injurious.

That, as the acceptance of the smaller quantity might have the effect of barring his claim to the larger, he was compelled to decline becoming finally a party to it.

That he was obliged therefore to surrender not only the Reserve for purchase of 3,840 acres, but also the proffered Grant of 2,560.

That accordingly Your Memorialist did actually surrender the whole 6,400 Acres, with the Improvements in progress (paying to the Government the sum of £114 3s. 6d. for the intermediate use) and in consequence does not to this moment hold a Grant of a single Acre.

That, although retaining the same official relation to the Government as before, he is now induced to request a revisal of his case by a fear that, if allowed to remain longer dormant, his claims

may be considered as altogether extinct; and that, by the increase of Emigration and of Crown Sales, all the eligible lands of the Colony may become appropriated.

He prays therefore that he may be now allowed to receive a Grant of 6,000 acres, as originally solicited and as was evidently intended by Lord Bathurst, who, as your Memorialist humbly submits, could not have anticipated his forfeiture of a claim, which his Capital is admitted to have authorised, merely by the act of its earlier employment in the improvement of the Colony.

T. C. HARINGTON.

Sydney, New South Wales, 13th August, 1835.

[Enclosure No. 2.]

[This was a copy of the despatch with its enclosures from under secretary Hay to Governor Darling, dated 22nd February, 1826. see page 181 et seq., volume XII; also the report of the land board and Governor Darling's minute, the substance of which are contained in the memorial.]

SIR RICHARD BOURKE TO EARL OF ABERDEEN.

(Despatch No. 86, per ship Andromeda; acknowledged by lord Glenelg, 12th March, 1836.)

My Lord,

Government House, 2 Septr., 1835.

2 Sept.

I have the honor to forward, in conformity to Regulation, a Memorial from Mr. Edward Smith Hall, praying compensation for the delay which has taken place in giving possession to his family of part of an allotment of a thousand acres promised them by General Macquarie.

Transmission of memorial from E. S. Hall claiming compensation *re* land grant.

The Land referred to was the subject of a dispute between the Memorialist and Mr. Henry Hall, and the latter occupied the Land until Lord Stanley decided against his claim and in favor of that of the Memorialist's family by his Despatch of the 7th February, 1834, No. 59. The instructions contained in that Despatch, which appears intended to dispose finally of this matter, have been complied with.

I have, &c.,

RICHD. BOURKE.

[Enclosure.]

[A copy of this memorial is not available.]

SIR GEORGE GREY TO SIR RICHARD BOURKE.

(Despatch per ship John Barry; acknowledged by Sir Richard Bourke, 10th May, 1836.)

Sir,

Downing Street, 3d September, 1835.

3 Sept.

I am directed by Lord Glenelg to transmit to you a copy of a Letter, which has been received from the Secretary to the Treasury enclosing an Extract of a Report of the Commissioners of Audit, relative to certain payments made to Judge Burton

Query *re* payments to W. W. Burton.

1835.
3 Sept.

for expenses consequent upon the visit, which he made to Norfolk Island for the purpose of holding a Criminal Session for the Trial of Prisoners.

These payments embrace certain charges of a description most unusual on such occasions; and I am, therefore, directed to request that you will call upon Mr. Burton to refund the amount, which he has received, with the exception of any actual expenses which he may have incurred in embarking or disembarking, unless there should be some special and very satisfactory reason to the contrary.

I am, &ca.,
GEO. GREY.

Amount to be
refunded by
W. W. Burton.

[Enclosure No. 1.]

HON. J. STEWART TO UNDER SECRETARY HAY.

Sir, Treasury Chambers, 28 Augt.. 1835.

I am commanded by the Lords Commrs. of His M.'s Treasury to transmit herewith an Extract of a Report of the Commrs. of Audit, relative to payment made to Judge Burton for expenses consequent upon his proceeding from Sydney to Norfolk Island to hold a Criminal Session for the Trial of Prisoners, and to request, in submitting the same to Lord Glenelg, that you will state to his Lordship that my Lords Concur with the suggestions of the Auditors with respect to the very unusual and irregular charges for Insurance on the Judge's life, and for provisions, Wines and spirits; and My Lords likewise conceive that the charges for payments to servants for personal attendance, in addition to the charges which appear to have been incurred for the conveyance of the Judge's own Servant, are equally objectionable.

My Lords wd. accordingly request that the Governor of New S. Wales may be apprized that the payment to Judge Burton, with the exception of any actual expenses of embarking and disembarking, will be disallowed, unless he should have some special and very satisfactory explanation and reasons to offer for its admission, and that he may be directed to take immediate measures for procuring the Refund of the amount thus issued to Mr. Burton.

I am, &c.,
J. STEWART.

Objections to
payments to
W. W. Burton.

Disallowance
of payments.

[Enclosure No. 2.]

EXTRACT from a Report from the Commrs. of Audit, dated
28 July, 1835.

PAYMENT made to Judge Burton under authority of the Govr. Major Genl. Bourke, for expenses consequent upon his proceeding from Sydney to Norfolk Island, to hold a Criminal Session for the Trial of Prisoners.

The first Item of this Charge is £18 9s. for a set of Bills on England for £18 to pay Sea Risk on a Policy of Insurance upon the life of Judge Burton; Upon which we submit to your Lordships that the Insurance of Judge Burton's life appears to be wholly a matter of private consideration, of which the Public can take no cognizance; and that, were this charge to be admitted except under very special circumstances, it cd. scarcely fail to create a precedent for

Payment for
insurance
on life of
W. W. Burton.

similar claims from various persons in the public service. We are therefore of opinion that it cannot properly be allowed, except (which we apprehend can scarcely be the case) it can be clearly shewn that it constituted no part of the regular duty of the Judge to proceed on the service in question to Norfolk Isld.

1835.
3 Sept.

Other Charges, part of the same account, for provisions, Wine and Spirits, purchased on proceeding upon the above mentioned voyage, amounting to the sum of £30 1s. 10d., appear likewise to be inadmissible, inasmuch as it is shewn by Vouchers 148 and 149 of the account of Deputy Commissary, General Laidley for the month of August, 1834, and by Voucher 121 of the present account, that payments were made under regulations and by authority of Major Genl. Bourke for the entertainment of Mr. Justice Burton and his Suite on board His M.'s Ship "Alligator," on the voyage to and from Norfolk Island, and while on shore there, at the Table of the Commandant. A Correspondence, between the Governor, the Judge, and the Commissary of Accounts on the subject of the above charge, is annexed to the Voucher; in wh. Correspondence it is urged that additional expense was incurred by the Commandant of the Island by reason of the entertainment of other Officers during the stay of the Judge. It appears, however, that such arguments, if admissible, wd. afford grounds rather for making additional allowance to the Commandant than for repaying to Mr. Justice Burton expenses, which he incurred apparently for his own convenience.

Payment for provisions, wine and spirits.

We beg, therefore, leave to recommend that your Lordships shd. give directions that the sum of £30 1s. 10d. charged for Provisions Wine and Spirits, together with that of £18 9s., for the additional Premium of Life insurance, shd. be refunded by Mr. Justice Burton, unless the explanations, which may be called for by the Governor, should appear to him to be such as might render the subject deserving of your Lordships' reconsideration.

Proposed refund by W. W. Burton.

The remaining part of the Charge of £57 10s. 4d. is for a Ham-mock and Line for a servant, Payments to Servants for personal attendance, and expenses of Embarkation and disembarkation; to the admission of which, as final charges against the Public, we apprehend your Lordships see no objection.

Further charges admitted.

We have, &c.,

F. S. LARPENT.
H. F. LUTTRELL.
W. H. HERRIES.

SIR RICHARD BOURKE TO EARL OF ABERDEEN.

(Despatch No. 87. per ship Andromeda; acknowledged by lord Glenelg, 26th February, 1836.)

My Lord, Government House, 3 Sept., 1835.

Referring to my Despatch, No. 14, dated 3rd Feby. last, with which I had the honor to forward a Memorial from D. C. Genl. Laidley praying for remuneration for the extra services therein stated, I Lament to acquaint Your Lordship that Mr. Laidley died on the 30th ulto. He has left a widow and a family of eight children, chiefly daughters and of whom the eldest is not sixteen, but indifferently provided for.

Death of J. Laidley.

I am therefore induced to solicit that whatever advantage may appear to have been due to the deceased, may be afforded to his widow and family and to represent the distressing circumstances in which they are placed as an additional motive for your Lordship's favorable consideration of the Memorial referred to.

I have, &c.,
RICHD. BOURKE.

LORD GLENELG TO SIR RICHARD BOURKE.
(Despatch No. 47, per ship John Barry.)

5 Sept.

Sir, Downing Street, 5th September, 1835.

I have received your Dispatch No. 110 of the 19th of October last, enclosing 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 a year; and, having conferred upon the subject with the Lords Commissioners of the Treasury, I have to acquaint you that, considering the arrangements under which the expenditure of the Department in which Mr. Westgate is employed will in future be defrayed from the Colonial Funds, and adverting to the circumstances set forth in the Memorial, there will be no objection to your providing, in the Estimates for the Police Establishment to be submitted to the Legislative Council, the increased rate of Salary for which Mr. Westgate has applied.

I am, &c.,
GLENELG.

LORD GLENELG TO SIR RICHARD BOURKE.
(Despatch No. 48, per ship John Barry.)

Sir, Downing Street, 5th September, 1835.

I have received your Dispatch No. 89 of the 15th of September last, enclosing copies of two Acts passed by you with the advice and consent of your Legislative Council in the Month of August last entitled:—

No. 9. "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."

No. 10. "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 not failed to consider together with your despatch the very elaborate arguments drawn up by the Chief Justice and by Mr. Justice Burton upon the question whether it was competent

1835.
3 Sept.

Recommendation of prayer of memorial.

Despatch acknowledged.

Increased salary for J. Westgate.

Acts of council received.

to the Legislature of New South Wales to pass such Acts. Mr. Burton, I perceive, contends that, in the words of the Statute 9 Geo. 4, Cap. 83, those Acts are "repugnant to the Law of England"; whilst the Chief Justice controverts this opinion with regard to the Robbery and House breaking Act, and it is denied by the Chief Justice and Mr. Justice Dowling jointly in reference to the Interest of Money Act; and, without now entering into the reasoning of the question, I will only state that my own opinion coincides with those of the Chief Justice and Mr. Dowling; I concur generally in the arguments by which they have supported their conclusions, though with some qualifications which it is unnecessary to detail.

His Majesty has, therefore, been pleased to confirm and allow these Acts.

I am, &c.,

GLENELG.

1835.
5 Sept.

Protest by
W. W. Burton.

Allowance
of acts.

UNDER SECRETARY HAY TO SIR RICHARD BOURKE.

(Despatch per ship Susan; acknowledged by Sir Richard Bourke, 1st April, 1836.)

Sir, Downing Street, 8th September, 1835.

8 Sept.

I am directed by Lord Glenelg to transmit to you the enclosed copy of a Letter from Mr. James Scott, containing an application to receive a grant of Land under the former regulations.

Application by
J. Scott for
land grant.

It appears from Mr. Scott's statement that he proceeded to New South Wales in the year 1829, carrying with him sufficient Capital to entitle him to a Maximum Grant; that he did not however immediately select his Land, relying on the assurance of the Private Secretary to the Governor that he would experience no difficulty in obtaining the Land at a future period. He further states that he had actually selected his Land and had made his application before the promulgation of the new Regulations, but that, owing to the circumstance of there being no regular channel of Communication with the seat of Government from the point from which his application was addressed, it was not received until a period when the Land Granting system had been abolished. It is impossible here to form a judgement of the correctness of these statements, which can only be ascertained on the spot; but, if the facts are such as are represented, it seems to Lord Glenelg that Mr. Scott has some claim to favorable consideration, and in that case there would be no objection to your placing him in possession of a Grant unless you should perceive any reason to the contrary of which his Lordship has not been made aware.

Statements
by J. Scott.

Land to be
granted if
statements
correct.

I am, &c.,

R. W. HAY.

1835.
8 Sept.

[Enclosure.]

MR. JAMES SCOTT TO LORD GLENELG.

My Lord, Infantry Barracks, Chatham, August, 1835.

Application by
J. Scott for
land grant.

In reference to your communication of the 17th inst., I have the honor to refer your Lordship to L. General Darling, Governor of the Colony at the period of my Emigration, as to my respectability and claims on emigrating in 1829 to a full Grant of land; the amount of Capital required by the Regulations of 1829, I could either have then produced or can do so at present if required.

With respect to the delay in not applying for my Grant immediately on my arrival in the Colony, I enclose an affidavit to elucidate that point, and your Lordship I trust will deem that sufficient evidence, as the Govt. Books in the Colonial Secretary's Office at Sydney will prove the veracity of my statement.

I have only further to add that since the Colonial Govt. did not feel themselves justified in granting my Petition, I immediately, on receiving an answer to that effect, applied to Earl Grey in 1832, and since that period, as I found that several individuals, whose claims were similar to mine, had received their Grants, I determined on coming to England in person to prosecute my claims, which I trust your Lordship will perceive to be well founded.

I have, &c.,
JAS. SCOTT.

[Sub-enclosure.]

AFFIDAVIT BY JAMES SCOTT.

Chatham, Co. of Kent, August, 1835.

Affidavit
by J. Scott.

I, JAMES SCOTT, Gent., hereby aver and make oath that the delay, in applying for a Grant of Land I was entitled to in the Colony of N. S. Wales, was in consequence of an assurance given me by L. Colonel Dumaresq (then Private Secretary to L. Genl. Darling, Governor of that Colony) that my Grant would be given me at any time I wished, and that, had it not been for this circumstance, I should immediately on my arrival in the Colony have taken up my Grant of Land. I further make oath that my application for Land was dated prior to the promulgation of the present Regulations.

JAS. SCOTT.

Sworn before me at Rochester, this 19th day of August, 1835.

R. CLEMENTS, Justice.

LORD GLENELG TO SIR RICHARD BOURKE.

(Despatch No. 49, per ship Susan.)

9 Sept.

Sir, Downing Street, 9th September, 1835.

Despatch
acknowledged.

Having referred for the consideration of the Lords Commissioners of the Treasury your Dispatch No. 115 of the 22d of October last, with the Memorial therein enclosed from Mr. Thomas Hansen, late Commander of the Colonial Schooner "Isabella," praying for some provision in consideration of his former Services, I have now to acquaint you that their Lordships have stated their concurrence with me in opinion that the prayer of the Memorial should be complied with; and you will

consider yourself authorized to issue to Mr. Hanson an allowance of three shillings a day, to be paid from the Funds from which the charges for the Convict Establishment in the Colony are defrayed, and to take effect from the period at which he may have ceased to receive pay as the Master of the *Isabella*.

1835.
9 Sept.
Pension for
T. Hansen.

I am, &c.,
GLENELG.

SIR RICHARD BOURKE TO LORD GLENELG.
(Despatch No. 91, per ship *Andromeda*.)

My Lord, Government House, 9 Sept., 1835.

With reference to the Earl of Aberdeen's Despatch of the 17th February last, No. 25, in which I am informed that three ships with Female Emigrants will be despatched from England to this Colony during the present year, I have the honor to report the arrival of the first of these "The Canton" on the 3rd instant.

Arrival of ship
Canton with
immigrants.

I regret, however, to state that it became necessary on account of the appearance of the Small Pox on board during the passage to place the vessel under Quarantine until the absence of all danger of infection be ascertained on competent authority. The disease happily has not extended to many of the Emigrants, and, in one case only, that of an infant, has it proved fatal. For further information regarding the health of the women, and the measures adopted for their accommodation whilst under Quarantine and for securing efficient vaccination, I beg to refer your Lordship to the accompanying letters of the Inspector of Hospitals and of the Surgeon in whose charge the Emigrants have been placed.

Outbreak of
small-pox on
voyage.

Transmission
of reports.

By the next opportunity I hope to be enabled to report their release from this unpleasant restraint, and their useful employment in the Colony.

The payments directed to be made on account of each Emigrant by Mr. Hay's Letter of the 30th April, 1835, will be duly attended to.

I have, &c.,

RICHD. BOURKE.

[Enclosure No. 1.]

SURGEON BOWMAN TO COLONIAL SECRETARY MACLEAY.

Sir, Medical Department, Sydney, 4 Sept., '35.

In acknowledging the receipt of your communication representing the arrival of the Ship *Canton* with the Small Pox on board, and directing me to proceed to Spring Cove to ascertain and report the particulars, I now have the honor to acquaint you, for the information of His Excellency the Governor, that I have been to the Quarantine Station this morning, and, in conversation with the Master and Surgeon of the Ship, ascertained that several cases of Small Pox occurred among the passengers Since their embarkation.

Report by
J. Bowman re
small-pox on
ship *Canton*.

1835.

9 Sept.

Report by
J. Bowman *re*
small-pox on
ship *Canton*.

Two Hundred and thirty four men, women and children embarked at Gravesend on the 30th of April and sailed the same day; but, in consequence of contrary winds in the Channel, it was necessary to anchor at Tor Bay on the 10 of May, where they remained until the 19th, and, during the time they were there, the first case of Small Pox was observed in a Boy from some part of Kent, where the disease had prevailed previous to his embarkation.

Fourteen persons were affected by the disease on board the Ship, and one of them (an infant) died. Another Child appears to have died of Bronchitis, and these were the only two deaths that occurred on the Voyage.

The last case of Small Pox appeared on the 14th of August, and was discharged from the Sick report on the 23rd only eleven days ago; and, as there are several persons on board who have not had the disease nor have they been protected against it by Vaccination, I would beg leave to suggest the propriety of keeping the ship in Quarantine and taking such precautionary measures as may be deemed necessary to prevent the introduction of Small Pox into the Colony.

Proposed
quarantine;

The Surgeon stated that he procured a quantity of Vaccine Virus at Tor Bay, which he made use of, but from some cause he could not explain it was unsuccessful.

The crew and passengers are all healthy at present.

The Master of the Ship informed me he had been on shore last night near the North Head, and was in an empty Hut, but did not acknowledge having seen or spoken to any person.

and preventive
measures.

It would be desirable to destroy the infected clothing and bedding and also to white wash and clean the ship in such manner as would prevent the propagation of the disease; but, as there is no person on board who could be entrusted with so important a duty, I conceive one of the Naval Surgeons now in the Colony might be very beneficially employed on that service, as he would promptly carry the orders of Government into effect, and might probably make many useful suggestions for the improvement of the Quarantine Regulations.

I recommend the surgeon to Vaccinate all the persons under his charge, who have not already had the disease, and promised to send him a supply of Virus for that purpose tomorrow.

I have, &c.,

J. BOWMAN.

[Enclosure No. 2.]

SURGEON OSBORNE TO COLONIAL SECRETARY MACLEAY.

Sir,

Ship *Canton*, 9 September, 1835.

Report by
A. Osborne.

I have the honour to acquaint you that the Crew and Passengers of this Ship are in perfect health. All the children, which have not had the Cow Pock, have been vaccinated. The Clothes of those, who had the Small Pock, are packed up and stowed away and will be burned the moment we disembark. The clothes of the whole party will then be thoroughly washed and the fittings of Berths, etc., taken down, formed into a raft and towed on the beach and sunk for some days. The Ship will then be carefully scrubbed with a strong solution of Chloride of Lime.

As the Sailors have been kept entirely separate and distinct from the Passengers the whole of the voyage, living in the Forecastle,

and the Females always locked up at night, I purpose keeping them still on board, being apprehensive that we will not possess the same controul on shore without the aid of Bolts and Bars.

1835.
9 Sept.

Report by
A. Osborne.

One Lady was confined yesterday morning, another is on the eve of her accouchement; in these two instances, I also intend exercising a discretionary power by keeping them on board till they can be removed with comfort and safety, at the same time endeavouring to fulfill the Spirit of my instructions by using every possible precaution against communicating the infection to other persons in the Colony.

I beg to state that the master of the ship has notified to me that all obligation on his part to provide rations of any description ceases on the landing of the Passengers; if so, I beg to suggest that one week's rations should be forwarded to the Cutter and from thence issued daily to prevent the inconvenience, etc., from bad weather or other accidental obstructions.

We have got six Bell Tents and two of a larger description, and we will not be able to disembark before tomorrow forenoon.

Trusting in the approbation of the Government of our intended operations,

I remain, &c.,

ALICK OSBORNE.

SIR GEORGE GREY TO SIR RICHARD BOURKE.

(Despatch per ship Susan.)

Sir, Downing Street, 11th September, 1835.

11 Sept.

I am directed by Lord Glenelg to transmit to you an application, which has been received from Mr. John Brown, requesting to be again employed in the Department of the Surveyor General of New South Wales, from which the late reductions have removed him; and I am to request, that you will acquaint Mr. Brown that his Lordship can hold out to him no prospect of his being able to avail himself of his services. You will at the same time have the goodness to remind Mr. Brown that his application should have been sent through you.

Inability to
re-employ
J. Brown.

I am, &c.,

GEO. GREY.

[Enclosure.]

MR. JOHN BROWN TO LORD GLENELG.

Castlereagh Street, Near Park St.,
Sydney, 22nd Novr., 1834.

Sir,

I most humbly presume to take the liberty to address your Honor for a favor, that will do me infinite service if complied with, having a wife and five children. Immediately on my arrival as a free emigrant in the Colony in April, 1827, I took the liberty of waiting on the Governor, General Darling, and, presenting a few Specimens of Abilities as Draughtsman and Surveyor, the Governor very kindly placed me in the Surveyor's Office in that Capacity.

Employment of
J. Brown in
survey
department.

I continued there for upwards of three years, first with Mr. Oxley and finally with the present Surveyor General, but, on account of Government regulations, I was forced to leave, but was kindly

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promised to be employed again, should there be a vacancy. I have taken the liberty to enclose the Surveyor General's letter in answer to a most humble request to be again employed, Not aware of other Officers just at that time about to be reduced.

Request for
re-employment.

I have not attempted to ask the favor since, being aware that Offices are filled from home appointment. I therefore most humbly solicit your Honor's influence in giving me an Appointment again to that Office in that Capacity. I am aware it will be in accordance with the Surveyor General's wish, and to myself it will be an infinite favor.

I have, &c.,

JNO. BROWN.

[Sub-enclosure.]

SURVEYOR-GENERAL MITCHELL TO MR. JOHN BROWN.

Sir, Surveyor General's Office, 20th Sept., 1830.

Inability to
employ
J. Brown in
survey
department.

In acknowledging the receipt of your letter dated 17th instant, I can only express my regret that such is the necessity at present for economy and reduction, that it is not in my power to hold out the slightest prospect of your being again employed as a Draftsman in the office. Indeed you must have been convinced of this, had you been aware that three useful officers of the Department are on the point of being reduced, one having already left, and the Services of another being to cease in November. An appointment as a Supernumerary, for which you apply, is quite out of the question, for a peremptory order has just arrived from home for the immediate reduction of all officers of that description.

I am, &c.,

T. L. MITCHELL. Sr. Gl.

LORD GLENELG TO SIR RICHARD BOURKE.

(Despatch No. 50, per ship Susan.)

18 Sept.

Sir, Downing Street, 18 September, 1835.

Transmission of
memorial from
R. Dawson.

I transmit to you herewith a copy of a Memorial, which has been addressed to the House of Commons by Mr. Robert Dawson, late Agent to the Australian Company, on the subject of a claim, which he sets forth to receive a Grant of Land in New South Wales.

Claim to
land grant.

This claim, as you will perceive, is grounded on an application, which Mr. Dawson appears to have made to the local Government in the year 1828 on his separating himself from the Company, but which application was then refused. The question was referred by the House of Commons to a Committee,* which has been lately engaged in enquiring into certain transactions connected with the Government of Sir R. Darling; and it was reported by the Committee to contain matter which could not be investigated there with advantage, and which was more properly cognisable by this Department.

Reference to
committee of
house of
commons.

Mr. Dawson accordingly addressed a communication to me of which I enclose a copy, together with a copy of the reply, which I have directed to be returned to it.

* Note 31.

When Mr. Dawson renewed his application to this Department in the year 1832, Lord Goderich declined complying with it on the ground that the Regulations, now in force and which had then been brought into operation, prevented the granting of Land. I am, however, disposed to think that, unless there were some circumstances of which I am unacquainted, which prevented Sir R. Darling from complying with Mr. Dawson's application without infringing the established Regulations, he has some claim to more indulgent consideration; and, unless it shall appear that he was disqualified under the terms of those Regulations from receiving the Grant for which he applied, you will consider yourself authorised to allot to him such a portion of Land as he would then have been entitled to in consideration of his Capital, subject to the Regulations in force at that period.

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Decision by
viscount
Goderich.

Opinion of
lord Glenelg
in favour of
claim.

I am, &c.,
GLENELG.

[Enclosure No. 1.]

THE Petition of Robert Dawson of Sandwell Cottage near
Birmingham.

Petition of
R. Dawson
soliciting land
grant.

To the Honourable the Commons of the United Kingdom assembled
in Parliament.

Humbly Sheweth.

That your Petitioner, being a resident in New South Wales from 1825 to 1828, made repeated applications to General Darling, then Governor of the Colony, for a Grant of Land according to the terms upon which land was usually granted.

That Petitioner in particular pointed out to the Governor three sections then unlocated on the Williams River, and that General Darling refused to grant the same or any other unlocated lands in the Colony to your Petitioner.

That, immediately after such application so made by your Petitioner in the year 1828, General Darling granted the lands before mentioned to Dr. Donald Macleod, Military Inspector of Hospitals.

That General Darling was at that time in the practise of granting lands to other persons, his personal friends, as your Petitioner believes improperly; and that the refusal of his claim must have proceeded as your Petitioner believes from the desire on General Darling's part to favour others at the expense of your Petitioner.

That your Petitioner has long been desirous of settling with his family upon Lands in the Colony of New South Wales on the terms which, up to a period more recent than the time of his application, were granted to other Settlers, whose claims for such indulgences were not greater than those of your Petitioner.

Your Petitioner therefore humbly prays that your Honourable House will be pleased to investigate the circumstances connected with the rejection of your Petitioner's claim in order that justice may be done him.

And your Petitioner will ever pray.

ROBERT DAWSON.

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[Enclosure No. 2.]

MR. R. DAWSON TO LORD GLENELG.

My Lord, Rectory House, Dean St., Soho, 7 Sept., 1835.

Reference of
claims of
R. Dawson to
colonial office.

Having presented a Petition to the House of Commons for the redress of what I, as a British Subject, have felt it to be a great grievance respecting a Grant of Land in New South Wales, The House having referred the Petition to the Committee for investigating the conduct of General Darling, and that Committee having referred it to the Colonial Office, I take the liberty of drawing your Lordship's attention to the circumstances of the case in as brief a manner as I am able.

Statement
of claims.

In the Year 1825, I went out to New South Wales as Chief Agent to the Australian Company, and in 1828 I was separated from them in consequence of disagreements between the local Committee and myself, the full particulars of which have since been submitted to the public.

On quitting the Australian Company, I applied to General Darling the then Governor of the Colony for a Grant of Land with the view of finally settling upon it with my family, in reply to which application General Darling (as the accompanying copy of his letter will shew) informed me that "my request could not be complied with for the present," without at the same time assigning any reason for this determination.

As a proof that General Darling entertained no unfavourable opinion of my personal conduct and character of which he possessed ample means of judging, I may be permitted to state that I was continued in the Commission of the Peace to the hour of my departure from the Colony, which was several months subsequent to my rupture with the Committee of the Australian Company.

When I quitted the Colony, it was my intention to return to it with my family under the impression that my claim was not rejected but deferred only, and I therefore left behind me, in charge of a friend, several hundreds of Sheep, hoping and believing that the Grant, to which as a British Subject I felt myself fairly entitled in common with others, would ultimately be made to me; but a series of domestic afflictions after my return to England, together with my own declining health, prevented me from making an appeal to the Home Government to have my Claim considered till the Year 1832, when I made an application to the Secretary of State for the Colonies and was informed that "the Regulations then in force for the disposal of Crown Lands precluded him from acceding to my request."

Under the peculiar circumstances of my case and the disappointments and inconveniences which necessarily arose out of the arrangements I and my family had so long been making for proceeding ultimately to the Colony, I had entertained a confident hope that, like several other cases, mine would have been considered as exempt from the strict letter of the altered Regulations, which had then taken place in the disposal of the Crown Lands in New South Wales; and that I should not be deprived of a Grant which I had previously applied for in the Colony, merely because I had not the good fortune (owing to my unhappy situation) to renew my application in London previous to the discontinuance of the Regulations which had formerly existed, but which unquestionably would have

been made, could I have foreseen the intentions of the Government and the position in which such a circumstance would have placed me.

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18 Sept.

Statement
of claims.

Having thus been deprived of the advantages to which I had long been looking forward, and suffered in consequence great inconvenience and loss, and having also my only remaining son now in the Colony in charge of the Flocks and left behind me without any land of my own, the possession now of the Grant, which I ought to have had when I applied to Genl. Darling, would be of great importance to me; and I have therefore felt it incumbent upon me to use every effort to obtain a favourable consideration of my claim, which appeared to me to be founded in strict justice, more especially after my unsuccessful application for it in the Colony and the refusal of it by General Darling as I have before stated.

I have, &c.,
ROBERT DAWSON.

[Sub-enclosure.]

COLONIAL SECRETARY MACLEAY TO MR. R. DAWSON.

Sir, Colonial Secretary's Office, 19th June, 1828.

Having submitted to the Governor your letter of the 6th instant, referring to your application for a Grant of Land, I am directed by His Excellency to inform you that your request cannot be complied with at present.

Refusal of
land grant by
R. Darling.

I have, &c.,
ALEX. MCLEAY.

[Enclosure No. 3.]

SIR GEORGE GREY TO MR. R. DAWSON.

Sir, Downing Street, 16th Sept., 1835.

I am directed by Lord Glenelg to acquaint you that he has had under his consideration your letter of the 7th Inst., together with the Memorial which you addressed to the House of Commons on the subject of your claim to receive a Grant of land at N. S. Wales.

Decision of
lord Glenelg
on claims of
R. Dawson.

Lord Glenelg has directed me to state that this is a case on which he finds it extremely difficult to form any decided opinion, in the absence of all explanation on the part of the local Govt. of the grounds upon which you were refused the Grant on your first application; and, as Sir R. Darling is unable at this distance of time and without the necessary documents to afford any explanation on the subject, the Secretary of State can only transmit a copy of your statement to Govr. Sir R. Bourke, with directions to investigate the circumstances which may have led to the refusal to grant you the land, and with further instructions, if it shall appear that there were no valid and substantial reasons for considering you disqualified from receiving the land, to make to you such a Grant as you would at that time have been entitled to in consideration of your Capital, subject in other respects to the Regulations then in force; and if the Governor should have reason to consider that you were in any way disqualified from enjoying such advantage, he will be directed to report the grounds of such opinion for the consideration of the Secretary of State.

I am, &c.,
GEO. GREY.

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SIR RICHARD BOURKE TO LORD GLENELG.
(Despatch No. 92, per ship William Bryan.)

My Lord, Government House, 18 Septr., 1835.

Passing of
estimates for
police and
gaols.

By my Despatch of the 12th August last, No. 79, Your Lordship will have been apprized of the vote of the Legislative Council (obtained by a majority of one voice only) for providing out of the Colonial Revenues for the expence of the Police and Gaol Establishments, hitherto charged upon the Military Chest.

Protests
against
charge.

According to the expectation I then expressed, Protests* against this charge have been entered upon passing the appropriation Act by several Members of Council. I have the honor to transmit printed Copies of the Protests and of the Appropriation Act.

Opinion of
two official
members of
council ;

Your Lordship will perceive that, in addition to the Protests of the Members who voted against those items in the Estimates, and who object to the Colony being charged with any part of the expence, Protests or rather declarations of opinion of a more qualified kind have been entered by two of the official Members and one Colonist by whose aid the vote in question was passed. These Members consider that, in the present state of the Colony, the expence of its Gaol and Police Establishments should be shared between the Colonial Treasury and the Military Chest. I have already, in my Despatch of the 12th August last, expressed the same opinion. Nor do I conceive that it can be regarded as altogether at variance with that of His Majesty's Government, since it is quite evident from the Letter of the Secretary of the Lords Commrs. of the Treasury, enclosed with Mr. Secretary Spring Rice's Despatch of the 15th Novr., 1834, No. 39, that their Lordships did not contemplate the transfer of any higher charge than about £25,000 per annum to the Colonial Funds. The Estimate for 1836 is taken at £45,000, and I do not expect it can be reduced. There is a general call for the protection of the Police or Constabulary Force even in the most remote Districts, which cannot be wholly resisted; and the absolute necessity of building additional Gaols and Bridewells to meet the case of an encreasing population, swelled by continued and large accessions of English criminals, becomes daily more and more evident. These heavy charges on the public purse must continue so long as the Colony is constituted the Depot for transported offenders and for some time after their transmission shall have ceased. I do not consider that, with reference to the Revenue of the Colony and the urgency of other services, so large a sum as £45,000 can with propriety be annually devoted to the Police and Gaols. I therefore beg to renew my application for aid from the Military Chest of at least £20,000 per annum. If this proposition be

and of
Sir R. Bourke.

Estimated
expenditure
for year 1836.

Request for
annual subsidy
from military
chest.

* Note 32.

acceded to, it will leave the charge on the Colony for 1836 at about £25,000, being the sum which the Lords of the Treasury appear to have contemplated as the burden to be imposed.

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18 Sept.

I have the honor to transmit herewith a Copy of the Petition to which I referred in my Despatch of the 12th August. The Petition* is numerously and respectably signed and conveys the almost unanimous opinion of the Colonists.

Transmission of
petition against
expenditure.

I need not, I am persuaded, take up your Lordship's time by any detailed comments upon the several Protests now laid before you. That part of Mr. Blaxland's dissent, which objects to the charge for several Departments besides those of Police and Gaols, was brought under the notice of the Secretary of State with my observations in the last year. The Protests of Messrs. Berry, Jones and Macarthur represent some of the Estimates as too high and others as too low. With the exception of the general objection to burthening the Colony with the charge for Police and Gaols, they have not stated in what respects the Estimates should have been reduced, nor did they propose any other omission than the charge for Police and Gaols when the Estimates were under discussion in Committee. The general objection to expenditure is not consistent with the frequently expressed opinion of one at least of these gentlemen that much mischief was occasioned by retaining large sums in the Treasury un-employed; nor with the statement of the three that the public Buildings require expensive repairs. I am, however, by no means prepared to admit that any loss has been incurred in the manner they represent, as Repairs have been effected and several new Buildings have been erected, though not all or the most costly of those which are required. Upon this subject however, I beg again to refer your Lordship to my Despatch of the 13th January last, No. 4. With respect to the alleged insufficiency of the sums appropriated to Immigration, I have only to remark that I have proposed as much as I believe can be expended within the specified periods and have stated in the Finance Minute that, if a larger sum be required, it may be obtained. I cannot, however, conclude this Despatch, without repeating my conviction that, if the whole charge for Police and Gaols be thrown on the Colony, it will be necessary to encroach upon resources urgently required for other objects, and expressing my hope that His Majesty's Government will not definitely adopt any proceeding that may cripple the means of improving the social character of the Colony, whether by Immigration or by the outlay of large sums for the General Education of the People.

Protests by
J. Blaxland;

and by
A. Berry,
R. Jones and
J. Macarthur.

Repairs to
public
buildings.

Sums
appropriated
for
immigration.

Effect of charge
for police and
gaols.

I have, &c.,
RICHD. BOURKE.

* Note 33.

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[Enclosures.]

[Copies of these papers will be found in the "Votes and Proceedings" of the legislative council.]

MR. JAMES STEPHEN* TO SIR RICHARD BOURKE.
(Despatch per ship Susan.)

20 Sept.
Advance to J. Croft.

Sir, Downing Street, 20th September, 1835.

I am directed by Lord Glenelg to acquaint you that a Communication has been received from the Secretary to the Treasury, intimating that the Lords Commissioners have directed the Sum of thirty one pounds 10s. to be issued to Mr. J. Croft, who is about to proceed to New South Wales as Deputy Purveyor of Hospitals in the room of Mr. Clapp, such payment being on account of that portion of the pay of the Deputy Purveyor, which will be defrayed from Funds applicable to the expenditure relating to Convicts.

I am, &c.,
JAS. STEPHEN.

MR. JAMES STEPHEN TO SIR RICHARD BOURKE.
(Despatch per ship Susan.)

22 Sept.
Advance to J. V. Thompson.

Sir, Downing Street, 22d September, 1835.

I am directed by Lord Glenelg to acquaint you that a Communication has been received from the Secretary to the Treasury, intimating that their Lordships have directed the sum of One hundred and twenty Six Pounds 15s. to be issued to Deputy Inspector General J. V. Thompson as an advance, to which he is entitled under the Army Regulations of such portion of his pay as will be payable from the Funds applicable to Convict Expenditure.

I am, &c.,
JAS. STEPHEN.

LORD GLENELG TO SIR RICHARD BOURKE.
(Despatch No. 51, per ship Susan.)

25 Sept.
Objections to employment of convict clerks in public departments.

Sir, Downing Street, 25th September, 1835.

My attention has recently been called to the question of employing Convict Clerks in the Departments of Government by the proceedings of a Board of Public Officers, which was appointed by the local Government of Van Diemen's Land to enquire into that question. The facts elicited by that enquiry were such as to confirm my opinion of the evils resulting from such a system, not only as regards the interests of the Public Service, but also as affecting the discipline and control of that

description of Criminales from amongst whom the Clerks employed by Government have been selected, and who from the very circumstance of their being better informed are generally the more culpable, and less deserving of indulgence. The general effect also of that practice is naturally such as to diminish the dread of Transportation as a punishment. On this view of the case, the Lords Commissioners of the Treasury have concurred with me in the propriety of sanctioning the expense involved by the immediate removal of Convict Clerks from every position of trust in the Government Departments at Van Diemen's Land, and by discontinuing altogether, as speedily as possible, the practice of employing Convicts in that capacity. I am aware that such a practice has been far less general in New South Wales; but, at the same time, I think it right to apprise you that His Majesty's Government are most anxious to abolish the system altogether; and you may consider yourself authorised to propose to your Council to make adequate provision in the Estimates for obtaining the services of free Clerks where it may be found absolutely necessary to supply the place of the Convicts removed.

1835.
25 Sept.

Objections to employment of convict clerks in public departments.

Removal of convict clerks.

I am, &c.,
GLENELG.

LORD GLENELG TO SIR RICHARD BOURKE.
(Despatch No. 52, per ship Susan.)

Sir, Downing Street, 28th September, 1835. 28 Sept.

I have received your Dispatch No. 31 of the 18th of February last, enclosing a Letter from the Commercial Banking Company of Sydney, relative to the establishment of the Bank of Australasia.

Despatch acknowledged.

As my Dispatch No. 21 of the 9th July last would place you fully in possession of all the details connected with that Establishment, it is scarcely necessary that I should now observe that the Commercial Banking Company appear to have completely misconceived the principle upon which the Bank of Australasia has been constituted.

Erroneous idea of formation of bank of Australasia.

I am, &c.,
GLENELG.

LORD GLENELG TO SIR RICHARD BOURKE.
(Despatch No. 53, per ship Susan.)

Sir, Downing Street, 30th September, 1835. 30 Sept.

I have received your Dispatch dated the 16th of February last, No. 29, representing that Grants of all Crown Lands hitherto issued to Settlers in New South Wales have been so issued in the name of the Governor for the time being, instead of having been

Erroneous issue of land grants in name of governor.

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30 Sept.

Questions
submitted for
legal opinion.

issued, as is required by the Royal Commission and Instructions, in the name of the King and under the public Seal of the Colony; and you propose that I should consult the Law Officers of the Crown upon three questions: first, whether such Grants are valid; secondly, whether the Local Legislature can by any Law, to be enacted in New S. Wales, impart to such Grants a retrospective validity; and thirdly, whether it would be necessary to resort to Parliament for assistance on this subject. You further apprise me that the method, pursued in a similar case in Van D. Land of issuing new Grants in due form of Law to replace the illegal Grants already issued, would be productive of the most extreme and intolerable inconvenience.

Policy to
be adopted.

Fully agreeing with you as to the importance of this subject, and the necessity of preventing the growth of doubts which would involve the whole Colony in alarm and confusion, I do not entirely concur in your opinion that this is a case in which it would be fit to act in implicit deference to the advice of the Law Officers of the Crown. Attaching the utmost weight to their authority, and with the most perfect respect for their judgment, I am yet bound to remember that they cannot act judicially, and that their opinions, however decisively expressed, would not be binding on any of the King's Subjects who might have an interest in disputing them. Being persuaded that measures of prevention are in such a case as the present recommended by the clearest motives of prudence and sound Policy, I should not think it right to abstain from the adoption of such measures, however high might be the legal authority by which I should be assured that in strictness of Law they were unnecessary. For in this, as in many other cases, it is more important to consider what may be the popular apprehension respecting the Law, than whether that apprehension is perfectly accurate. What has passed in Van D. Land must necessarily excite misgivings in New S. Wales, and to a panic of that nature it would be to little purpose to oppose a Report of the Law Officers of the Crown, which a subsequent decision of the Legal Tribunals might over rule.

Practical
questions
involved.

The practical question which presents itself really is, by what means the validity of the Grants already issued can be placed beyond controversy. The method of issuing new Grants being set aside by your remarks on that subject, only two possible modes of proceeding remain. The first is that of an application to Parliament, the second is that of the Enactment of a Law for the Establishment of those Grants by the Governor and Legislative Council.

Legislation
proposed.

The objections to proceeding by Act of Parliament are sufficiently obvious. This is a subject very little fitted for the

cognizance of Legislative Bodies on this side of the World. It would be one of those interferences in the internal Economy of the Colonies, which are to be deprecated as much on the ground of general convenience as on that of Constitutional Principle. To lay a proper Parliamentary Basis for such an Enactment, it would be necessary to produce Evidence which would be scarcely accessible in this Country, and which, if produced, could hardly be accurately understood. Adverting also to the great and increasing amount of the business which devolves on both Houses of Parliament in each succeeding Session, I am much disinclined to make any demand on their attention in any case which, with equal or greater propriety, could be discussed in the Local Legislature. It remains then to consider whether there is any reason to doubt the competency of the Governor and Legislative Council to the decision of this question.

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30 Sept.

Objections to
legislation by
English
parliament.

Competency
of legislative
council to pass
enactment.

I do not find in the Paper, drawn up by the Chief Justice, any explanation of the reasons which may have induced him to doubt the power of yourself and of the Legislative Council to pass an Act confirmatory of the titles acquired under the informal grants which have hitherto been issued in that Colony. But I conjecture the difficulty to be that, as Parliament cannot lawfully pass, or even entertain a Bill divesting the King of any property holden by His Majesty in right of the Crown, unless the previous consent of the King to such an enactment shall first have been duly notified, so, by parity of reason, the Governor and Legislative Council of New S. Wales could not without the Royal sanction enact a Law, of which the effect would be to bar His Majesty's right to Lands, to which, by reason of the invalidity of existing Grants, the King may in abstract theory and according to the rigid letter of the Law be said to be still entitled. To obviate this difficulty, I now therefore signify to you and authorise you to communicate to the Legislative Council His Majesty's gracious Pleasure that you do on his behalf assent to any Law which shall appear to you to be properly framed, and which shall be passed by them, declaring that all Grants or Conveyances of Land theretofore issued by and in the name of any Governor or Officer for the time being Administering the Government of New S. Wales, or any Lands situate in that Colony, shall, although not bearing the name of His Majesty or any of his Predecessors nor under the Public Seal of New S. Wales, be thence-forward, and shall be taken from their respective dates to have been as valid as though they had been issued in the name of His Majesty or of either of His Majesty's two last Royal Predecessors, and under the Public Seal of New S. Wales. The

Royal approval
for act of
council to
legalise
irregular land
grants.

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30 Sept.

Act should of course contain a recital of the fact that it was passed with such a previous intimation of His Majesty's Pleasure. Subsequently to its Enactment, the forms prescribed by your Commission and Instructions should be exactly followed in all future Grants.

Local enactment to be confirmed by English statute, if necessary.

I am not aware what question or doubt could be raised respecting the authority of a Local Law to be passed with such a sanction. But if, when passed, it should be declared by a Judicial decision inadequate for the purpose, His M.'s Government would then apply to Parliament to impart to the Local Enactment any further sanction which might so be pronounced necessary. It would, I apprehend, be a far more simple and Constitutional proceeding so to invoke the aid of the Supreme Legislature to confirm a Law invalid without their confirmation (if, contrary to my belief, any such invalidity should be discovered in it) than to propose to Parliament in the first instance to undertake the investigation of a subject entirely of Local concern, and the cognizance of which, so far as appears or has been yet stated, must belong exclusively to the Local Legislature.

I am, &c.,
GLENELG.

LORD GLENELG TO SIR RICHARD BOURKE.
(A circular despatch per ship Recovery.)

Downing Street, 30th September, 1835.

Transmission of general order re Orange lodges in army.

I HAVE the honor to transmit to you herewith for your information and guidance, a General Order, which has been issued by the General Commanding in Chief, on the Subject of Orange Lodges in the Army.

I have, &c.,
GLENELG.

[Enclosure.]

[*This was a printed copy of general order No. 522, dated "Horse Guards, 31st August, 1835."*]

SIR RICHARD BOURKE TO LORD GLENELG.
(Despatch No. 93, per ship Spence; acknowledged by lord Glenelg, 29th March, 1836.)

3 Oct.

My Lord, Government House, 3 October, 1835.

Claim by W. W. Burton to be senior puisne judge.

I have the honor at the request of Mr. Burton, one of the Judges of the Supreme Court, to forward a Communication addressed by him to Your Lordship, asserting his claim to be considered as Senior Puisne Judge of that Court. This place

has been continually held by Mr. Justice Dowling without any opposition on the part of his associate on the Bench, from the period at which Mr. Burton first took his seat as Junior Judge in the beginning of the year 1833 until a few weeks ago, when it became contested, as Your Lordship will perceive, in consequence of an intention expressed by me of appointing the Senior Puisne Judge to supply the place of the Chief Justice during the latter's approaching absence from the Colony on leave.

1835.
3 Oct.

Reasons for making claim.

Mr. Burton having furnished me with his claim in writing, and Mr. Dowling having sent in a statement also, I endeavoured to obtain some insight into the merits of the case by referring those papers to the Chief Justice and Law-Officers. The Chief Justice declined acting in concert with the Law-Officers, but sent me a confidential Letter, which, I am at liberty to state, expressed an opinion that, in the absence of all Colonial Precedent and not perceiving how English Precedent could be made to apply, the question would be best decided by His Majesty's Government. The Law-Officers gave me an opinion of which I have the honor to transmit a Copy. Your Lordship will perceive that they were unable to afford me any conclusive information as to the rule which Governs the precedency of Colonial Judges in the case brought forward. I therefore informed Mr. Burton "that I looked upon the question as one, which must be decided in the last resort by the authority of His Majesty, and that, under these circumstances, I have no grounds for considering Mr. Dowling improperly placed in the seat he has so long occupied on the Bench; and, regarding him therefore as the Senior Puisne Judge until informed by competent authority that he is not, I cannot deny him any distinction or advantage to which such Seniority may in my opinion give him a fair claim."

Reference of claim to F. Forbes and law officers.

Opinion of F. Forbes;

and of J. Kinchela and J. H. Plunkett.

Decision by Sir R. Bourke.

It can be hardly necessary that I should explain why I have resorted to the rule of conventional seniority in filling temporarily the place of the Chief Justice rather than to any other public or private criterion of preference. I reasonably expected that I should thus have avoided many jealousies and Embarrassments which, for a mere temporary purpose, it would be unwise to encounter; and, while I gave no grounds to the casual holder of the vacant seat for believing that, in the event of a permanent appointment, I would have preferred him, I spared him the pain of what he might have considered actual degradation, in putting a Junior over his head for some months only. To this consideration, Mr. Justice Dowling is fully entitled, not only by his station and general respectability of character, but on account of the very laborious attention he paid to the duties during the protracted illness of the late Mr. Justice Stephen.

Reasons for appointment of J. Dowling as acting chief justice.

1835.

3 Oct.

Reasons for
appointment of
J. Dowling as
acting chief
justice.

I have been strengthened in my determination to adopt this course by observing that, in a letter of Mr. Hay addressed to General Darling, dated the 14th November, 1828, No. 52, the performance of the duties of Chief Justice in the event of the temporary absence of that Functionary seems to be considered by His Majesty's Government to devolve upon the Senior Puisne Judge as a matter of course.

I can therefore only express my extreme regret that Mr. Burton should have felt and declared himself so much aggrieved by this simple and natural course of proceeding on my part. Whatever view may be taken by His Majesty's Government of the grounds on which he lays claim to the seat, which has been so long occupied with his consent by Mr. Justice Dowling, it must, I think, be clearly evident that nothing has been brought to my attention sufficient to justify me in taking any step wh. would deprive the latter of any benefit he might naturally expect to obtain from the rank he thus holds.

Opinion *re*
abilities of
W. W. Burton.

As Mr. Burton has appealed to me in the course of the Letter addressed to your Lordship for my opinion of his character and abilities, with particular reference to his fitness for the office of Chief Justice, I have no hesitation in declaring that I consider him admirably qualified to fill that office in any Colony where English Law is administered. I have reaped great benefit from his Talents and assiduity, both at the Cape* and in this Colony, in Legislative and other matters of public business, to which he has cheerfully devoted himself, in addition to the ordinary duties of the Bench; and I should have been most happy to have availed myself more extensively of this assistance or to have contributed to its reward in any way that I could reconcile with a sense of justice and propriety. I will add that, had the vacancy about to be made by Chief Justice Forbes been permanent instead of temporary, I should not have hesitated one moment to name Mr. Burton to fill it, in the humble hope that His Majesty would be graciously pleased to look favorably on my recommendation, and confirm the appointment, a course which I would still pursue if an opportunity offered, notwithstanding the want of judgment which I am compelled to admit is but too apparent in the expression of complaint contained in the Memorial now Transmitted.

Transmission
of letter from
J. Dowling.

Having informed Mr. Justice Dowling that I was about to transmit to your Lordship the Letter of Mr. Burton, he has requested me to forward at the same time the enclosed, which contains his claim to be regarded as the Senior Judge.

I have, &c.,

RICHD. BOURKE.

* Note 35.

[Enclosure No. 1.]

1835.
3 Oct.

MR. JUSTICE BURTON TO SECRETARY OF STATE.

Sydney, New South Wales,

2nd September, 1835.

Sir,

Certain changes having been communicated to me by His Excellency The Governor of this Colony as shortly intended to be made in its Judicial Establishment, by which my prospects are materially affected, I request your considerate attention to the circumstances which have led to my disappointment, relying with entire confidence both that His Excellency will so represent the character, conduct, and services of him who, personally unknown to you, feels constrained thus to address himself to you, as that he may not appear to be wholly unworthy of regard, and upon yourself for that appreciation of them which they may be found justly to deserve.

Changes intended in judiciary.

The intended changes, to which I have alluded, are the absence on leave of Chief Justice Forbes, and the Selection by His Excellency of Mr. Justice Dowling to be his Successor during that time, which His Excellency has done me the honor to state has proceeded solely on the ground of his Seniority to me, and not on account of my unfitness for the Office, or his superior fitness for it.

Selection of J. Dowling as acting chief justice.

I think I have reason to complain of that arrangement, because, although Mr. Justice Dowling was my senior at the Bar in England before either of us accepted a Judicial appointment under the Colonial Department, and although that gentleman also took his seat upon the Bench of this Colony nearly five years before myself, yet the first circumstance is too well known to be wholly immaterial as to the Seniority of a Judge first appointed, to make it necessary for me to trouble you with any observations upon it; and, as to the latter, I maintain that, inasmuch as I was nominated by Earl Bathurst to be a Judge at the Cape of Good Hope in the month of March, 1827, and Mr. Justice Dowling was nominated by Viscount Goderich to be a Judge in this Colony in the month of May following in the place of Mr. Justice Menzies, who had been previously nominated to that office by Earl Bathurst, and, as I embarked by order of the Right Honorable Secretary of State for the Colonies, having received by the same order my Salary for six months in advance on the first of August, 1827, and Mr. Justice Dowling on the twenty-ninth day of October following, and as I arrived at the Cape on the sixteenth of October, 1827, and Mr. Justice Dowling arrived in this Colony on the twenty fifth of February, 1828, and as I was sworn into office as a Judge at the close of the

Claim by W. W. Burton to seniority over J. Dowling.

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Claim by
W. W. Burton
to seniority over
J. Dowling.

year 1827 and entered upon my duties on the first of January, 1828, and Mr. Justice Dowling was sworn into office and entered upon his duties on the twenty fifth of February following, and as I was removed, not at my own request, but upon His Majesty's most gracious command from the Bench at the Cape of Good Hope to the Bench of this Colony, in consequence of a reduction of the Judicial Establishment in the former Colony and the retirement of one of the Judges from the Bench in this, I maintain that, in analogy to the rule which it is well known prevails upon the removal of a Judge from one Court to another in England, namely that he is entitled to his precedency in the latter according to his seniority as a Judge, I had a right under such circumstances, and in a question of preference arising from mere seniority, to be considered as the Senior Judge.

The above facts and circumstances with such observations and conclusions therefrom as I thought myself fairly entitled to make, I communicated to His Excellency the Governor in a letter addressed to him by me dated the 28th of last month, which I have requested His Excellency to bring under your notice; and I have been since informed, by His Excellency's command, first, by letter of the Colonial Secretary, dated 11th August last, "That Mr. Justice Dowling had denied the correctness of my claim, and that His Excellency proposed to leave the matter to the decision of His Honor the Chief Justice, the Attorney General and Solicitor General"; and Secondly, by letter of the Colonial Secretary dated the 1st Instant, "That His Excellency had received the opinions of His Honor The Chief Justice and of the Law Officers, but they contain nothing that he considers conclusive on the Subject; and further that, in the absence of all Colonial precedent, the question affecting me and His Honor Mr. Justice Dowling is only to be decided in the last resort by the authority of His Majesty; That, under these circumstances, the Governor has no grounds for considering Mr. Dowling improperly placed in the seat he has so long occupied on the Bench; and, regarding him therefore as the Senior Puisne Judge until informed by competent authority that he is not, His Excellency cannot deny him any distinction or advantage to which such Seniority may in his opinion give a fair claim," and "that His Excellency thinks it proper to acquaint me that, from a Despatch received here from the Secretary of State (dated 14th November, 1828, No. 52) upon the subject of Mr. Dowling's place on the New South Wales Bench, it is plainly to be collected that His Majesty's Government regards the succession of the Senior Puisne Judge to the discharge of the duties of Chief Justice, in the event of any temporary absence of the latter, as a matter of course."

Decision on
claim by
Sir R. Bourke.

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3 Oct.Surprise
at decision.Arguments in
favour of claim.

I do not doubt that His Excellency will bring under your notice the grounds upon which Judge Dowling has denied the correctness of my claim, as with these I have not been made acquainted. I would observe, however, that, if the facts stated by me are correct (and they are not capable of contradiction), I can only express my surprise both at His Excellency's decision, and that the opinions of His Honor The Chief Justice and of the Law Officers, which I do not doubt His Excellency will also lay before you, should be inconclusive on the subject; inasmuch as I deem the Stat. 9 Geo. 4, c. 83 (commonly called the New South Wales Act), Sec. 24th, to be conclusive in my favour, it being thereby enacted "that all laws and Statutes in force within the Realm of England at the time of the passing of that Act shall be applied in the administration of Justice in the Courts of New South Wales and Van Diemen's Land respectively, as far as the same can be applied within the said Colonies"; and the rule of succession of a Judge to the Bench of one Court, who has been removed from another, is not a mere rule of Court, but a part of the Law of England, which, like the Law of Descent or any other law of succession, is law in this Colony "*if it can be applied.*" It may be that I afford the first instance of the necessity for the application of this rule of Law, but some case must always occur which will be the first, and the fact of there having been none such before forms no objection, I submit, to its applicability; but, in all cases where there is no precedent to the contrary, the rule of the Law of England ought to prevail.

The fact of my prior nomination and first taking office as a Judge being admitted, I cannot bring myself to doubt that His Majesty, in removing for official convenience a Judge to another Court in the same or any other Colony, would both, as a measure of Law and Justice, for otherwise great dissatisfaction would arise to Individuals thus removed, and an unwillingness to comply with the views of His Majesty's Government respecting such removals, which might be prejudicial to His Majesty's service; neither can I entertain a doubt that the formal Instrument of my appointment as a Judge of the Supreme Court of this Colony, not having yet been made by His Majesty, has been alone the cause of my being for a time deprived of my true precedency, or that, when such Instrument shall be forwarded to this Colony, His Majesty will be pleased to award to me that precedency, which I should have had if I had been originally nominated to this Colony in March, 1827, instead of to the Cape of Good Hope. and that in analogy to the Law of England I shall be placed before Mr. Justice Dowling, who was nominated to this Colony in May of the same year.

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Arguments in
favour of claim.

I would observe also that no injustice can be thereby done to Mr. Dowling, who held the Junior Station to Mr. Stephen, whom I succeeded, and therefore lost no rank by being preceded by another Judge also Senior to himself.

I would further observe, as to the Despatch above alluded to of the 14th November, 1828, that it could not have reference to any other than the circumstances then existing in this Colony, namely who of the two Judges, Stephen or Dowling, should succeed in the event of the temporary absence of the Chief Justice, and cannot by any construction be made applicable to the circumstance now existing here, namely who of the two Judges, I or Judge Dowling, should succeed during that time.

Principles for
selection of
acting chief
justice.

I think, however, I have reason to complain that the mere circumstance of Seniority, if it exist, should be made the criterion of selection in a question as to which of two Judges shall succeed to the Chief Seat on the Bench in the event of a vacancy. I maintain respectfully that the true and only criterion, upon which in any case it can be safe and proper to proceed in such a selection, is that of Superior fitness for the office itself; and I at once admit that, if such were the ground of His Excellency's selection, I should have no reason to complain.

But, in order to shew the unsoundness of the principle of adopting the fact of mere Seniority in such a selection, I would respectfully urge that cases might be stated as existing or having existed in a Colony, where the Governor might conscientiously be of opinion that a Junior Judge might possess greater Zeal or capacity for public usefulness than his Senior, or even where he might be conscientiously of opinion that the Senior was not fitted for the office at all; in such a case, to proceed by the criterion of Seniority would in my opinion, and I state it with deference, be neither consistent with the public good, nor a due regard to the honor of His Majesty's Government. Nor, I respectfully maintain, does it make the slightest difference upon such a question, whether the appointment contemplated be merely temporary or permanent, inasmuch as that which is at first temporary may by events of good or evil to others become permanent, and whether the appointment of a successor to the Chief Justice prove eventually to be a temporary measure or not, it affords long enough opportunity for great public usefulness in this Colony or the contrary to the holder of it.

Expectation of
succession to
chief justice.

I have further to complain on the ground that I had reason to expect, in the event of a vacancy occurring in the office of Chief Justice here, and of my being found the best qualified to succeed to it, that I should obtain that elevation; because I was

removed from my situation as a Judge at the Cape of Good Hope under circumstances of very great personal inconvenience and sacrifice, shortly after His Excellency Sir Richard Bourke, under whom I had the honor to serve in that Colony, had been appointed to be The Governor of New South Wales, an arrangement which I was informed, in a public letter addressed to me by Mr. Hay dated the 10th of January, 1833, was made for the following reason, namely that, "on General Bourke's appointment to the Government of New South Wales, he intimated to the Secretary of State the great satisfaction he would derive from the benefit of my services, if it should be found practicable at any subsequent period to transfer them to his Government," and because, in the same letter, Mr. Hay informed me by direction of Lord Goderich that His Lordship "had no difficulty in admitting that my services at the Cape had given me a fair right to look to Advancement."

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Expectation of
succession to
chief justice.

For proof of this Statement both as to the causes of my removal from the Cape, the circumstances attending it, and the reasonableness of my expectations of future consideration arising therefrom, I earnestly pray your reference to the following documents in the Colonial Office.

Papers re
removal of
W. W. Burton
from Cape of
Good Hope.

1. A Despatch from Viscount Goderich to His Excellency The Governor of The Cape of Good Hope, dated 29th of March, 1832, No. 75.

2. A Despatch from Viscount Goderich to His Excellency The Governor of The Cape of Good Hope, dated the 16th of June, 1832.

3. A letter from myself to Viscount Goderich dated Cape Town, 28th of September, 1832.

4. A letter from R. W. Hay, Esqre., to me dated 10th of January, 1833.

Lastly, I had reason to expect that, in a question of succession to the vacant seat of the Chief Justice, I should be selected for that appointment on the ground of my Zeal and the usefulness of my public Services in this Colony; in proof of which I rely entirely upon the report of His Excellency The Governor, of whom I have requested and he has promised me so to report, as well for your satisfaction as that of my private friends, "that there had been no failure in my services, or His Excellency's confidence in me up to the present time."

Succession to
chief justice.

From the above statement, it will I trust be at once obvious that I cannot but look upon my prospects in this Colony as entirely changed, and I trust that I shall not be thought unreasonable, when I earnestly make my appeal, as I now do, to

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be relieved from my present situation, unless some previous arrangement more favorable to me shall have been made by His Majesty's Government, or such should occur before my removal from hence. I must however state that from various circumstances, especially my removal from the Cape, and the low rate of salary attached to my office as compared with the expense of the very moderate establishment I have maintained, I am considerably worse in worldly means than when I first accepted an appointment from Earl Bathurst in March, 1827.

Conditional
resignation
tendered by
W. W. Burton.

I can therefore only tender my resignation upon the condition that some other provision can be made for me, and I trust it will not be deemed presumptuous in me to point out in what way my own wishes in this respect will be fully accomplished, which I venture to do solely on account of the great distance and delay of communication between this place and England, and in order that His Majesty's Government may feel no embarrassment in appointing my successor. I venture to hope that, inasmuch as my claim to advancement, acknowledged by Lord Goderich three years since, has been in no way weakened, but on the contrary as I feel convinced that His Excellency The Governor of this Colony will report that my services here have been similar in every respect to those which in Lord Goderich's estimation gave me that claim, and consequently that you will think it increased; it will be in the power of His Majesty's Government to place me in the situation which I have been acknowledged to have a fair right to aspire to, namely that of a Chief Justice, whereby I may have an opportunity of more extended usefulness in His Majesty's Service than the situation of a Puisne Judge can afford.

Request for an
appointment as
chief justice.

Inability to
accept
appointment in
certain places.

It will not be in my power to accept an appointment in a Colony situated in a higher latitude than 50 degrees north, or on the coast of Africa except the Cape of Good Hope, or in any part of the West Indies to the southward of the Island of Jamaica, or in any of the Colonies where the "pleadings and proceedings of the Court" are in any other language than English, or in any of the Australian Colonies but this; with these exceptions, I shall be perfectly satisfied with a Chief Justiceship in any Colony where the official emolument shall not be inferior to that of my present situation, and upon being allowed my full Salary from the date of my embarkation, or else the actual expenses of my passage if they should exceed that amount.

Request for re-
appointment at
Cape of Good
Hope.

Or, I would respectfully state that, if any change be contemplated on the Bench at the Cape of Good Hope by the promotion or retirement of either of the Judges there, I should very greatly prefer my restoration to that Colony to any longer residence as a Puisne Judge in this.

I would however further state that I shall very thankfully accept any appointment in England for which my professional education as a Barrister and my personal qualifications fit me, the pecuniary remuneration of which may be to the amount of two thirds of my present salary.

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I have, &c.,

W. W. BURTON,

one of the Judges of the Supreme Court at New South Wales.

[Enclosure No. 2.]

MR. JUSTICE DOWLING TO LORD GLENELG.

My Lord, New South Wales, 2nd October, 1835.

Having been informed by His Excellency Major General Sir Richard Bourke, Governor of this Colony, that His Honor Mr. Justice Burton, the Junior Puisne Judge of the Supreme Court, has addressed a letter to Your Lordship, claiming to be considered as the Senior Puisne Judge of the Bench under the circumstances hereafter stated, I do myself the honor of respectfully Stating to Your Lordship the reasons why, I apprehend, the claim of Mr. Burton cannot be allowed.

Reply by
J. Dowling
to claim of
W. W. Burton
to precedency.

I am not apprised of the contents of Mr. Burton's letter to Your Lordship; but I collect from the official correspondence, which has taken place here on this subject, that he maintains his right of seniority over myself by force of the simple fact, that he was appointed a puisne Judge of the Bench at the Cape of Good Hope, and entered on his duties on the 1st of January, 1828, whereas I was appointed on the 8th of August, 1827, to the Bench of New South Wales, but did not enter on my duties until the 25th of February, 1828; and that, having been subsequently removed from the Cape of Good Hope and appointed a Puisne Judge of the Bench of this Colony on the 26th December, 1832, he, by reason of his prior accession to the office of Judge at the Cape of Good Hope, has a right to seniority over myself as a Judge of the Bench of New South Wales. This inference is, I understand, drawn from analogy to the rule which prevails in the Courts of Westminster Hall, where, if a Judge of one Court be translated to the Bench of another Court, he takes rank according to the date of his patent, and not according to the date of his removal.

Taking this to be the purport of the proposition submitted by Mr. Burton for Your Lordship's determination, I take the liberty of stating to Your Lordship the grounds on which I respectfully maintain my right to be considered as the Senior Puisne Judge of the Bench of this Colony.

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Reply by
J. Dowling
to claim of
W. W. Burton
to precedence.

My Case rests on two positions,

First, that, at the time of my appointment, it was *intended* by His Majesty that I should take rank in express terms "next to the Chief Justice"; and Secondly, that the rule, which governs precedence among the Puisne Judges of Westminster Hall, does not apply to the Puisne Judges of Courts in His Majesty's Colonial possessions. First, with reference to the question of intention, it will be seen by reference to a despatch, dated Downing Street, 4th August, 1827, addressed by Lord Viscount Goderich to His Excellency Lieutenant General Darling, the then Governor of the Colony, that His Lordship apprizes the Governor "that, in consequence of the great increase of business in the Civil and criminal Courts of Judicature at New South Wales, and the necessity for providing for the due execution of the same, The King has been pleased to appoint an additional Judge for the Service of that Colony, *who will take rank in the Supreme Court next to the Chief Justice.* It is only necessary to add that James Dowling, Esq., has been selected to fill that situation."

The intention thus expressed to give me rank next to the Chief Justice is farther confirmed by another despatch upon the same subject, addressed by Sir George Murray to Lieutenant General Darling, dated Downing Street, 14th November, 1828, to which I respectfully refer Your Lordship for more full information on the matter.

It is only necessary to add to this branch of my case by stating that, from the 26th of December, 1832, when Mr. Burton was appointed to the Bench on the resignation of the late John Stephen, Esq., until the present time, that Gentleman has never attempted to assert his seniority on the ground of his prior appointment to the Cape, but on the contrary thereof has silently acquiesced in the post of juniority, and has now agitated the question only on the expected departure of the Chief Justice for Europe on leave of absence.

Secondly, I submit with great deference to Your Lordship that the rule, which governs precedence among the puisne Judges of Westminster Hall, does not apply to the Judges of Courts in His Majesty's Colonial possessions for the following reasons;

It may be true that the Puisne Judges of the Courts of Westminster take precedence of each other accordingly to the respective dates of their patents, and, in case of removal from one to another of those Courts, they take their seats on the Bench according to their seniority as Judges; but the Judges at Westminster are not merely Judges of the particular Courts in which they sit to administer a part of the general jurisdiction of the realm, as the King's Judges; they are called upon to exercise a

collective jurisdiction both Civil and criminal, they compose one of His Majesty's Councils, and they are the constitutional assistants of the House of Peers in all matters of law; They are the Judges of England, and, whether they sit collectively or in particular courts, they take precedence of each other according to the priority of their Commissions. If it should please His Majesty in the exercise of His Royal prerogative to constitute Courts in this Colony analogous to the Courts at Westminster, and to appoint Judges in a similar manner, I am bound to concede that the same rule of precedence would prevail among the Judges here as part of the common usage of England, and that the removal of a Judge from one such Court to another would not affect his title to Seniority. But the removal of a Judge from one Colony to another is not in point with the removal of a Judge of one Court to another Court in the same Colony. There is no community of Jurisdiction between the Judges of different Colonies; their authority and their rank are confined to the particular Colony for which their appointment is made.

I submit, therefore, that the fact of Mr. Burton having been a Judge at the Cape of Good Hope does not, on his being appointed to this Colony, entitle him to seniority according to the date of his first commission, and that his present claim cannot be governed by the rule by which the Judges of England take rank of each other. If that rule be applicable for one purpose, it must, I submit, be applicable for all purposes, and lead to a reciprocity of adaptation highly inconvenient. The mere fact of the priority of the appointment of a Judge in point of time, no matter to what Court in any part of His Majesty's dominions, would lead to this consequence (if the rule contended for be irrefragable) that, if His Majesty should be pleased to remove an old Judge from some obscure Colony, and appoint him to the office of a Judge of one of the King's Courts at Westminster, he would be entitled to take precedence of all the Puisne Judges and Barons of those Courts, whose patents happened to be dated subsequently to his own original appointment as a Colonial Judge. Such a proposition, I conceive, could not be maintainable for a moment, and yet to this extent must the rule be carried, if it is to affect the removal of a Judge from a Colony of peculiar jurisdiction, and governed by its own local laws, to another Colony, different in its constitution and separate in its territorial limits. The fallability of the argument might be tested by other illustrations, but I forbear trespassing farther on Your Lordship's time in demonstrating the inapplicability of the rule to the question now at issue between Mr. Burton and myself.

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Reply by
J. Dowling
to claim of
W. W. Burton
to precedence.

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Reply by
J. Dowling
to claim of
W. W. Burton
to precedence.

I am not aware of any precedent to guide Your Lordship in this matter, and I apprehend the question can only be determined by the Authority of His Majesty. To this authority I most humbly and dutifully Submit, and, in whatever way His Most Gracious Majesty shall be pleased to determine the point, I shall bow to the decision with the most perfect contentment.

On my part the point thus raised by Mr. Burton, even at so late a period, has been met with the utmost candour, good temper, and courteous feeling towards that Gentleman. It has been to me a source of infinite comfort that, since we have been co-adjutors in the laborious office of a Judge in this remote Colony, the most friendly cordiality has hitherto subsisted between us; and, even should His Majesty be pleased to determine the point now at issue against me, I have too deep a sense of the duty I owe to His Majesty's service, and the public administration of my office, to suffer my private feelings to interfere with the proper discharge of those obligations which have been committed to my execution.

I have now been a judge of this Colony for eight anxious and laborious years, having been recommended by Lord Viscount Goderich as a fit and proper person to fill the office, upon the certificates of qualification (after twelve years' standing at the English Bar) signified by Lord Brougham, Sir Nicholas Tindal, Lord Chief Justice of the Common Pleas, The Hon. Baron Bayley, and many other persons eminent in the Law. I presume not to allude to the manner in which I have acquitted myself in a Colony of such peculiar elements, but I venture to persuade myself that, if the history of my humble career should be inquired into, I shall be found to have merited, in some degree, the confidence reposed in my integrity and ability for the responsible post in which I have been placed.

His Excellency the Governor having, for the present, determined the point of seniority in my favour, I keep the rank originally designed for me. The point therefore now remains for the final adjustment of His Majesty. Waiting anxiously that decision,

I have, &c.,

JAMES DOWLING.

[Appendix No. 1.]

MR. JUSTICE BURTON TO SIR RICHARD BOURKE.

Sir,

Sydney, 28th July, 1835.

Proposed
appointment of
J. Dowling as
acting chief
justice.

Your Excellency having communicated to me, in a conversation which I had the honor to have with Your Excellency yesterday, that it is your intention to appoint Mr. Justice Dowling to be Chief Justice during the anticipated temporary absence of the Chief Justice, and Your Excellency having further done me the

honor to state that your selection of Mr. Justice Dowling proceeded solely on the ground of his Seniority to me as a Judge, and not from any opinion of my unfitness for that office or of his Superior fitness for it, I consider it right to bring again Under Your Excellency's consideration in the present form the facts, which I then Communicated to Your Excellency, as giving me a right to be considered in a question of this nature as the Senior Judge, or else that such Seniority Shall not form the criterion of your Excellency's decision.

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Claim by
W. W. Burton
to seniority
over J. Dowling.

I was nominated by Earl Bathurst to be the Senior Puisne Judge of the Cape of Good Hope on the 22nd of March, 1827, and about the Same time Mr. Menzies a member of the Scotch Bar, now one of the Judges at the Cape of Good Hope, was nominated by Earl Bathurst to be a Judge in this Colony, of which fact I was for the first time informed by Mr. Menzies, when I was about to leave the Cape of Good Hope for this Colony, towards the close of the Year 1832. Earl Bathurst resigned the Seals of Office as Secretary of State for the Colonies Soon after making my appointment, and his Successor Viscount Goderich Communicated to the friends of Mr. Justice Menzies that, inasmuch as he was learned in the Civil Law as administered in Scotland only, and the Laws of this Colony were English, that his Services might prove ineffective here, although valuable in a Colony such as the Cape of Good Hope, where the proceedings were originally derived from the same Code. His Lordship therefore proposed that Mr. Justice Menzies Should be appointed Judge at the Cape of Good Hope instead, to which that Gentleman acceded upon condition, as he informed me, of being the Senior Puisne Judge, and he was so nominated by Viscount Goderich, who had not then adverted to the terms of my former appointment.

Reasons for
transfer of
W. W. Burton
from Cape of
Good Hope.

I was absent from England at the time of these proceedings, and did not discover what had taken place during my absence, until my return from Holland on the 15th of June, 1827, upon which I wrote to Mr. Hay, the Under Secretary of State for the Colonies, the Letter hereto annexed Marked A. An interview then took place between myself and Mr. Hay, at which I yielded the point of my precedency upon the express understanding that it should not prejudice me at any future time, and this understanding was Subsequently renewed to me in a letter from Mr. Hay to me, marked C, in answer to a letter written by me to him, marked B.

Correspondence
re transfer.

Upon the resignation of Mr. Justice Menzies of his appointment to this Colony, Mr. Justice Dowling was nominated by Viscount Goderich, and I have been since informed by him that he was so nominated in the month of May, 1827, but the facts which I have Stated prove that his nomination as a Judge was Subsequent to my own.

Nomination of
J. Dowling as
judge.

Again, I embarked, by order of the Right Honorable the Secretary of State for the Colonies, having received by the Same order my full Salary for Six Months in advance on the 1st day of August, 1827, and Mr. Justice Dowling on the 29th day of October following. I arrived at the Cape on the 16 of October, 1827, and Mr. Justice Dowling in this Colony on the 25th February, 1828.

Dates of
appointments.

The Cape Charter was promulgated, and I was Sworn into Office as a Judge at the close of the Year 1827, and I entered upon my duties on the 1st of January, and Mr. Justice Dowling's appointment

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was promulgated in this Colony and he was sworn into office and entered upon his duties on the 25th of February following.

Seniority
claimed by
priority of
dates.

Whether therefore the date of prior Nomination, or of embarkation and Commencement of Salary, or of arrival, or of promulgation of the legal instrument of appointment or induction into Office, be the point of time from which the Precedency of a Judge is to be determined, I maintain that, upon the point of mere Seniority, I am entitled to any advantages which may result from that circumstance.

I maintain, however, that the time of the promulgation of either instrument in the Colonies respectively is the only time at which it commences legally to take effect, for before that period it must remain uncertain on many accounts, but especially on account of the uncertainty of the lives of the respective grantees, whether it will ever take effect or not; and the time, when the Cape Charter took effect, was prior as I have Shewn to that of Mr. Justice Dowling's appointment; and, inasmuch as if that be not the time when Such an appointment legally commences to take effect, the only other period, at which it can do so, is the induction of the Grantee into office, for it is uncertain until then whether he will take office or not, and the time when I was inducted into office was prior as I have Shewn to the induction of Mr. Justice Dowling.

Seniority of
J. Dowling at
English bar.

I admit Mr. Justice Dowling is my Senior at the English bar as a Barrister, and that I entered office as a Judge of the Supreme Court of this Colony long Subsequently to him, namely, on the 1st of January, 1833; neither of which circumstances however I maintain deprive me of my Seniority. As to the former, it is a rule of Law that a Judge takes precedence not according to his Seniority at the Bar, but according to the priority of his taking office as a Judge; as to the latter, it is also a rule of Law that a Judge does not, by being removed from one Court to another in England, lose his precedence as a Judge.

Seniority of
judges on
transfers.

There have been many examples in England upon both these points; but I do not think it necessary to refer to any cases except as to the latter point, and upon that only to the instance of Mr. Justice Bailey, who was removed from the Court of King's Bench to the Court of Exchequer, and took his precedence in the latter according to his Seniority as a Judge, over those who had been long before appointed to that Court.

Claim for
seniority over
J. Dowling.

By analogy to this latter rule, I maintain that I, who was removed from the Cape of Good Hope to this Colony, not at my own desire but on the command of His Majesty, have a right to retain my original Seniority, and that, whether there be any Colonial Precedent to the Point or not, I am entitled at least, in the consideration of a question of this nature, to whatever benefit may be derived from the mere circumstance of Seniority.

Reasons for
not claiming
seniority on
supreme court
bench.

I admit that, when I entered upon office as a Judge in this Colony, I did not avail myself of my right of precedence in Court to take my Seat before Mr. Justice Dowling, but which I nevertheless maintain did not operate as a renunciation of my clear right, inasmuch as my forbearing to do so was not intended by me as a renunciation, but occurred in the following mode.

I was not aware until after I had taken my Seat on the Bench of the date of Mr. Justice Dowling's nomination by Viscount Goderich, or of the time he entered Office, and it was only then and

by a comparison of the circumstances above mentioned that I became aware that he had been nominated to this Colony *in the place of Mr. Justice Menzies.*

1835.
3 Oct.

Reasons for not claiming seniority on supreme court bench.

When I became aware of those facts, I did not consider it to be consistent with the duty I owed to His Majesty's Government to disturb the harmony of the Bench by the assertion of a mere right of Sitting before Mr. Justice Dowling in Court, which would give no real advantage to me, and especially as I considered, and I trust not unreasonably, having the Authority of R. W. Hay, Esq., one of His Majesty's Under Secretaries of State for the Colonial Department, for that Supposition, conveyed to me in a public letter, dated Downing Street, 26 June, 1827, addressed by him to me, that the Succession to the Chief seat on the Bench in the event of a Vacancy occurring would not be determined by mere Seniority, but by other considerations, the fair result of which I was contented to abide, as the following extract made by me from Mr. Hay's letter will prove, I trust, to your Excellency's satisfaction:—"Lord Goderich, in discussing a Similar question with reference to another Colony, has expressed his disinclination to give any assurance whatever to the Puisne Judges, who may be employed under this Department in regard to the Succession to the Chief Seat on the Bench, and his intention of reserving to himself the full right to Select the individual, whom he may consider the most fitted whether he be at home or already employed in the Colony where the Vacancy may occur."

I neither renounced my right nor intended so to do, but merely did not *insist* on it, no event of sufficient importance in my estimation having happened till now to induce me to do so.

I maintain, however, that neither in Law nor Justice can my ignorance of my right at the first, or my forbearance on the Subject until now, induced by such considerations as I have truly Stated to have influenced me, have the effect of depriving me of my right to be now considered as the Senior Judge, When I do insist upon it, and upon a question of this nature.

I therefore respectfully Submit to your Excellency that, for the above reasons, I claim, in the consideration of the question before your Excellency as to which of the Judges Shall preside in the Supreme Court during the temporary absence of the Chief Justice, to be accounted the Senior Judge, if that alone Should continue to be the ground of your Excellency's decision.

I have, &c.,
W. W. BURTON.

[Annexure A.]

LETTER W. W. Burton to R. W. Hay, Esq., Under Secretary of State for the Colonies, etc., etc.

No. 16 Marlboro' Place,

Sir, Kennington, 15th June, 1827.

I learn from Mr. Stephen that, in the arrangements now in progress for the appointment of Judges to the Cape of Good Hope, Mr. Menzies is to be placed above me, which, as I suppose it to have proceeded from inadvertency, causes me to trouble you with this letter, for I have always considered myself appointed to the Station of Senior Puisne Judge, and that from a communication you did me the honor to make to me the morning after my appointment. It is not to be wondered at, if that should have escaped your

Claim by W. W. Burton to seniority at Cape of Good Hope.

1835.
3 Oct.

Claim by
W. W. Burton
to seniority at
Cape of Good
Hope.

memory in the moment of Mr. Menzies' subsequent appointment, although I was too deeply interested in it for it to escape mine; and, as it is perfectly fresh in my recollection, I hope by adverting to it, I may be so fortunate as to recall it to yours.

The evening after my first interview with you, I received a note from you desiring to know my standing at the Bar, the object of which, when I communicated it to you the next day, you were so good as to say was to avoid the appointment of any one Senior to myself, as I was to be the Senior Puisne Judge, and you supposed the Etiquette of the Bar to be that, whatever Gentleman might be subsequently appointed, must be my Junior; and you did me the honor to ask if that were so, or, if supposing a Gentleman Senior to myself at the Bar should be appointed, I could consistently be the Senior Judge, to which I answered (as is undoubtedly the case) that I might, as the appointment of the Judge and not his previous rank at the Bar would decide his precedency. You then did me the honor to say, none would be appointed above me.

I felt your communication to be so handsome that I did not fail in telling my friends both in and out of the profession how greatly the importance of the Favor conferred upon me was increased by that circumstance, and how kindly it was done; and under that feeling, in thanking Lord Bathurst (a copy of my letter to his Lordship I have the honor to enclose), I dwelt particularly upon my appointment being next in rank to the Chief Justice, which being written the day after will shew at least my understanding of the matter; I think also, from my name having been placed in the draft of the Charter now in progress as the Senior Puisne Judge, and blanks being reserved for the names of two other Gentlemen, that instructions for that purpose must have been given and consequently intended.

I am sure I may under this impression request your consideration of the subject before the completion of the formal Instruments of appointment, as it is by no means a point of Etiquette, but, after the publicity which has so long obtained of my being the Senior Puisne Judge, one of feeling, and not of feeling alone, but on several accounts of vast importance to me; upon neither of these views can it be necessary to lengthen this letter as they must by force present themselves to your own mind.

May I beg the favor of your early notice, as it is my desire to go into Northamptonshire for a few days, beginning on Tuesday next, to take leave of my Family; but I cannot do so in uncertainty upon this point; and I have hitherto deferred that duty for the purpose of making a visit to Holland and acquiring the Dutch Language.

I have, &c.,

W. W. BURTON.

[Annexure B.]

LETTER W. W. Burton to R. W. Hay, Esq., Under Secretary of State for the Colonies, etc., etc., etc.

No. 16 Marlboro' Place,

Kennington, 18 June, 1827.

Sir,

I beg you will allow me to revert to the subject of the interview, with which you have honored me this morning, for the purpose of expressing my hope that, in the concession I made in the point of my precedency, I forfeit no prospect of future advancement, if an opportunity should occur and I be otherwise eligible.

Seniority
conceded by
W. W. Burton
conditionally.

Indeed when you consider the unpleasant situation which without fault on my part I am now placed in, in being compelled to contradict to my friends the impression I myself gave to them that I was to be the Senior Puisne Judge at the Cape, I hope you will authorize my mentioning to you the present disappointment and my acquiescence in it as entitling me to consideration to future favor upon a proper occasion.

1835.
3 Oct.

Seniority
conceded by
W. W. Burton
conditionally.

I have, &c.,

W. W. BURTON.

[Annexure C.]

LETTER OF R. W. HAY, ESQ., TO W. W. BURTON, ESQ.

Dear Sir,

Downing Street, 26 June, 1827.

I have received your letter of the 28th Inst. and can have no hesitation in assuring you that, by waving the right of precedence which it was at one time intended to give to you in the new Judicial Establishment which is preparing for the Cape, you forfeit no prospect of future advancement. As it may perhaps be satisfactory to you to possess such a document, I will state to you briefly the circumstances which, without the slightest shadow of blame on your part, have made it necessary to alter your position on the Bench at the Cape.

Conditions of
waiving right of
precedency by
W. W. Burton.

At the time you were first appointed, it was proposed to select for one of the Puisne Judgeships a Barrister, who, although I believe of older standing at the Bar than yourself, was not considered from peculiar circumstances to have enjoyed so much professional practice as yourself, and it was therefore deemed expedient to give you the precedence in the legal arrangement which was to be made. Of this intention on the part of Lord Bathurst, I informed you verbally, as you have very correctly reminded me in your letter of the 15th Inst.; but I neglected to inform you (as indeed I ought to have done), when the arrangement which was originally intended did not take effect, that the position of your name in the Patent would more depend upon the seniority of the person who might be selected.

Reasons for
altered
precedency at
Cape of Good
Hope.

Accordingly when Mr. Menzies a Practitioner at the Scotch Bar many years senior to yourself was chosen, I did not consider that there was any question of his taking his place in the Patent according to his seniority, and, until I was reminded of what had passed between us by your letter of the 15th Inst., I did not recollect that any communication to you on the subject was required.

I regret exceedingly that the change of circumstances, which has rendered it inexpedient to carry the first arrangement into effect, should have occasioned that disappointment which you describe, but I cannot imagine that it will at all influence your future prospects.

Lord Godrich in discussing a similar question with reference to another Colony has expressed his disinclination to give any assurance whatever to the Puisne Judges, who may be employed under his Department, in regard to the succession to the Chief seat on the Bench, and his intention of reserving to himself the full right to select the individual whom he may consider the most fitted, whether he be at home or already employed in the Colony where the vacancy may occur.

Succession as
chief justice
independent
of seniority.

I am, &c.,

R. W. HAY.

[Appendix No. 2.]

1835.
3 Oct.

MR. JUSTICE DOWLING TO COLONIAL SECRETARY MACLEAY.

Sir,

Sydney, 8th August, 1835.

Reply by
J. Dowling to
seniority
claimed by
W. W. Burton.

I have to acknowledge the honor of receiving your letter of the 3rd instant, acquainting me that you were directed by His Excellency the Governor to inform me "that, with reference to the anticipated appointment of an Acting Chief Justice, His Honor Mr. Justice Burton has asserted his claim to be considered as the Senior Puisne Judge of the Bench of this Colony, upon the ground that he was Sworn into office towards the close of 1827, and entered on his duties on the 1st January, 1828, whereas you were Sworn into office and entered on your duties on the 25th February following," and concluding with a request that, should I not feel disposed to admit this claim, I would inform His Excellency of the grounds upon which I assert my Seniority.

In reply to the above Communication, I have the honor most respectfully to acquaint His Excellency the Governor that I do not at all feel disposed to admit this claim of His Honor Mr. Justice Burton, but on the contrary beg Strenuously to assert my Seniority on the following grounds.

I would Venture to premise that the information contained in your letter, respecting His Honor Mr. Justice Burton's claim to Seniority, is incomplete in omitting to State the date of his Commission, and that his prior appointment to the office of a Judge has reference Solely to the Colony of the Cape of Good Hope, and not to that of New South Wales. In terms, therefore, I submit with deference, it Cannot be accurately Stated that he Could be considered as the "Senior" Puisne Judge of the Bench of *this* Colony.

The grounds on which I respectfully urge my right of Seniority are these. After being a practising Barrister of Westminster Hall for twelve years and upwards, I was, by Commission under the Royal Sign Manual of his late Majesty King George the Fourth, bearing date 8 August, 1827, appointed at the instance of the Right Honorable Lord Viscount Goderich to be one of the Judges of the Supreme Court of New South Wales, under the powers given to His Majesty by the Statute 4 Geo. 4th, Cap. 96, for the erection of a Supreme Court in this territory. I have now been eight years a Judge of this Colony, and my Seniority to those, who might thereafter be appointed to the Bench of New South Wales, has never until now been disputed. Very Shortly after I was sworn into Office, I was favored by the late Governor Darling with the Copy of a Despatch (to which reference may be had) from Lord Viscount Goderich to His Excellency, acquainting him in terms that "The King has been pleased to appoint an Additional Judge for the Service of this Colony, *who will take rank in the Supreme Court next to the Chief Justice.* It is only necessary for me to add *that James Dowling, Esqr., has been Selected to fill that situation.*" The design of His Most Gracious Majesty in giving me Rank next to the Chief Justice, so unequivocally expressed, could Scarcely be doubted, especially as I was thereby placed over the head of the late Mr. Justice Stephen, who was Senior to me not merely in years and Standing at the British Bar, but at least two years Senior in the date of his appointment to the Bench of New South Wales. It is true that, from courteous consideration for the feeling of that

1835.
3 Oct.

Reply by
J. Dowling to
seniority
claimed by
W. W. Burton.

Gentleman, I abstained from asserting my right then to the Seniority, and I had the Satisfaction Shortly afterwards of receiving His Majesty's most gracious approbation of my conduct on the occasion. On the resignation of Mr. Stephen, I took my Station as a matter of course, next in rank to the Chief Justice, and have held it undisputed until the present hour. On the resignation of Mr. Stephen in the month of December, 1832, Mr. Burton, who had been removed from the Cape of Good Hope, was appointed by His Excellency the present Governor to fill up the Vacancy thereby created, in pursuance of the Statute 9 Geo. 4, C. 83, of which notice was given in the Government Gazette of the 26th December, 1832. Mr. Burton has from that time Until the present never attempted to lay Claim to Senior rank over myself, which reasonably might have been expected he would have done, if he had any well founded Claims in Virtue of his anterior appointment to the Bench of the Cape of Good Hope. Until now he has Silently acquiesced in the post of juniority, and it comes now, I respectfully Submit, somewhat of the latest, that this claim should have been preferred Officially even without any previous personal or private Notice thereof to Myself.

I have too high a Sense of the honor and Justice of His Excellency the Governor to doubt his determining rightly upon this matter, and I persuade myself that he will not deem it disrespectful, if I announce at once that nothing but the express decision of His Most gracious Majesty in Council, adverse to my claims, can be Satisfactory to my Mind.

I have, &c.,

JAMES DOWLING.

[Appendix No. 3.]

MESSRS. KINCHELA AND PLUNKETT TO COLONIAL SECRETARY
MACLEAY.

Sir, Court House Chambers, 22d August, 1835.

We have the honor to acknowledge the receipt of your letter of yesterday's date, enclosing communication from Mr. Justice Dowling and Mr. Justice Burton, and requesting our opinion for the information of His Excellency the Governor, upon the respective claims of their Honors to be considered the Senior Puisne Judge of the Bench of New South Wales.

Legal opinion
re claims of
J. Dowling and
W. W. Burton
to precedency.

In reply, we have the honor to state that, with respect to the effect or precedency of the respective patents of the Puisne Judges in the different Colonial Courts of Great Britain, or how far the patent appointing a Puisne Judge in one Colony would affect or take precedence of the patent appointing a Judge in another Colony, we are Unable to give a decided opinion, as we are not aware of such a case as the present having before arisen.

We are however enabled to state that the Puisne Judges and Barons of England and Ireland (and we believe of Scotland) take precedence according to the date of their respective Patents; and, on the removal of a Puisne Judge or Baron to a different Court from that to which he was originally appointed, he takes his precedence among the other Puisne Judges or Barons according to the date of his original patent of appointment to the first Court. Many instances of such removal of Judges and Barons have taken place in England and Ireland, which prove the point; but we shall merely refer to the case of Baron Rainsford, who was removed from the

1835.
3 Oct.

Legal opinion
re claims of
J. Dowling and
W. W. Burton
to precedence.

Court of Exchequer of England into the King's Bench in the 21st year of the Reign of Charles the 2nd. It is reported in Sir Thomas Raymond's Reports page 175 as follows:—

“This term in the place of Justice Wyndham came Baron Rainesford, who, being a Baron before that *Morton* was a Judge, was now made the third Justice of this Court and took place of *Morton*.”

In the case of Sir Francis Buller, who was removed from the King's Bench to the Common Pleas in the Year 1794 (2 Hen. Bl. 385), we find that he took precedence of all the Puisne Judges of that Court; and in the more recent case of Baron Bayly, removed from the King's Bench to the Exchequer in the Year 1830, We also find that he takes precedence of Sir W. Garrow, who was then 14 years a Baron of the Exchequer (1 Tyrnhits Rep.). We may also refer to some similar instances in Ireland, namely the removal of Mr. Baron Daly from the Court of Exchequer to the King's Bench in the Year 1803, and of Mr. Justice Mayne from the Common Pleas to the King's Bench in the Year 1817; both of whom upon their removal took their places respectively in those Courts to which they were removed according to the dates of their original patents. In the absence of any direct precedents to guide us in forming our opinions on the question of precedence between Colonial Judges, we rather incline to hold the analogy of the instances Cited to be the best guide, for otherwise we have no guide but arbitrary opinion.

Appointments
as chief justice
independent of
seniority.

With respect to the high Judicial Situations of Chief Justices and Chief Barons of England and Ireland, we have to state that those Offices take precedence according to their respective Courts without reference to the date of their Patents, and that the Crown has always reserved to itself the right and prerogative of appointing to those important Offices Such legal persons as Shall be thought best qualified to discharge the duties thereof, without reference to their Standing or official Situation. The Crown has on many occasions appointed Puisne Judges and Barons to that office of Chief Justice and Chief Baron, but those appointments had no reference to their prior appointments as Puisne Judges or Barons. And, in many of such appointments,* a Junior Puisne Judge or Baron has been appointed a Chief Justice or Chief Baron over the heads of his Seniors; And we believe that it so happens that *all* the Chief Justices and Chief Barons of both England and Ireland at present were Selected from the Bar in the first instance, as none of them were Puisne Judges or Barons. This right and prerogative of the appointment of Chief Justices or Chief Barons has been uniformly Exercised by the Crown in Great Britain and Ireland, and from the Copy of the letter of Mr. Hay to Mr. Justice Burton, transmitted in His Honor's letter to you and Marked C, now before us, it would appear that His Majesty's Ministers are equally anxious to preserve to the Crown the right of appointing to the Situations of Chief Justices in the Colonies Such persons only as to His Majesty shall seem fit and proper persons to fill such important situations without reference to professional or Judicial Seniority.

We have, &c.,

JOHN KINCHELA, Attorney General.

JOHN H. PLUNKETT, Solicitor General.

* Marginal note.—Ch. J. Best, Ch. J. Abbott.

SIR RICHARD BOURKE TO LORD GLENELG.

1835.
4 Oct.

(Despatch No. 94, per ship Spence; acknowledged by lord Glenelg, 9th April, 1836.)

My Lord, Government House, 4 October, 1835.

By the Despatch of the Earl of Aberdeen No. 26, dated the 20th February last, I am informed of the appointment of four additional chaplains to the Establishment of Roman Catholic Clergy in this Colony. Amongst them is the Reverend Dr. Polding, who, I am apprized, has been permitted, with the sanction of His Majesty's Government, to exercise Episcopal Authority. Doctor Polding has lately arrived, and, very shortly after his landing, a Memorial,* of which I have the honor to transmit a copy, was presented to the Governor and Legislative Council praying that a Stipend of a larger amount than that issued to a chaplain might, for the reasons stated, be allowed to Dr. Polding. Having no authority from His Majesty's Government to issue any larger sum than £200 a year to Dr. Polding, and that sum only in the event of Mr. Ullathorne's removal to Van Diemen's Land, I deemed it proper to take the advice of the Council upon the amount of stipend which they would be willing to assign to Dr. Polding, if H.M.'s Government consented to enlarge it. The Council came to the resolution,* of which a copy is transmitted, recommending that he be allowed £500 a year. Being of opinion that this sum is not too much for the office Dr. Polding holds, and that in truth he could not discharge, with the requisite efficiency, his various duties upon so low a stipend as £200, I have the honor to submit, for Your Lordship's favorable consideration, the recommendation of Council that Dr. Polding be allowed £500 a year. At which sum, I would propose that his Salary be rated from the 22d ulto., the date of the minute transmitted herewith.

Appointment of
R.C. clergy.

Arrival of
Right Rev.
J. B. Polding.

Application
for increased
stipend.

Stipend
proposed
by council.

I have, &c.,

—————
RICHD. BOURKE.

SIR RICHARD BOURKE TO LORD GLENELG.

(Despatch No. 95, per ship Spence; acknowledged by lord Glenelg, 23rd April, 1836.)

My Lord, Government House, 6 October, 1835.

6 Oct.

With reference to the Despatch of Mr. Secretary Spring Rice of the 6th Novr. last, No. 36, and to the several applications which have from time to time been made to H.M.'s Government by the Directors of the Australian Agricultural Company claiming a larger allowance of Convict Labor than this Government has deemed it proper or been able to assign, I have the honor to inform your Lordship that I have endeavored to set this question at rest by the adoption of the following arrangement, which has the unanimous concurrence of the Executive Council.

Application by
A.A. company
for additional
convict labour.

* Note 36.

1835.

6 Oct.

Convicts to be assigned to A.A. company as recommended by executive council.

The New Regulations* for the assignment of Male Convicts having limited to seventy the maximum number assignable to any Settler, it has been thought reasonable by the Council to allow to the Company for their Agricultural and Grazing Establishments the maximum number of five Settlers or three hundred and fifty convicts, and for the mines at Newcastle one Hundred Convicts, amongst whom will be distributed as many miners as the demand for such operatives in Government work will admit. This arrangement should fully satisfy the Directors, and I cannot recommend your Lordship to consider favorably any application for an augmentation, whilst the circumstances of the Colony remain as at present.

I have the honor to transmit the Minute of the Executive Council upon the subject, and to request Your Lordship's particular attention to the comparative scale (page 5) by which will be perceived how favorably the Company's Claims have been considered, and how largely they are supplied with Convict labor with reference to the Land they keep under Cultivation, the quantity of Stock they possess, or the number of free persons they employ on their Estates. For the Service of the Coal Mines at Newcastle, the Company are allowed the whole number of Convicts which the Commissioner has represented to be required.

I have, &c.,

RICHD. BOURKE.

[Enclosure No. 1.]

PROCEEDINGS of the Executive Council relative to the Assignment of Convicts to the Australian Agricultural Company.

EXTRACT from Minute No. 14 of 11th June, 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 a despatch from the Right Honorable the Secretary of State, transmitting a representation from the Director of the Australian Agricultural Company, complaining of the very small number of Convict Agricultural laborers, which, as they allege, have been assigned to the Company during the last year; and the Council recommended that the subject should remain for further consideration until certain returns be received from the Commissioner of the Company at Port Stephen.

Extract from Minute No. 17 of 22nd Aug., 1835.

Present as before.

In reference to the proceedings on the 11th June last on the subject of the assignments of Convict laborers and Mechanics to the Australian Agricultural Company, His Excellency the Governor now laid before the Council a letter from the Commissioner of the Company resident at Port Stephens, transmitting a return of the land, Stock and servants, free and bond, belonging to the Company

Proceedings of executive council *re* assignment of convicts to A.A. company.

* Note 37.

in the form prescribed by the Regulations of 24th November, 1831, and containing a Statement of the number of men assigned to the Company on account of the Colliery at Newcastle, and their probable wants of labor of this description in future.

1835.
6 Oct.

Proceedings of executive council re assignment of convicts to A.A. company.

His Excellency the Governor also laid upon the table a Return prepared by the Board of Assignment from applications made since the commencement of the year 1834 by five of the largest settlers in the Colony, according to the form prescribed by the above regulations of 24th Novr., 1831.

The following is an abstract of that return and of the one made by the Commissioner of the Company above alluded to:—

No. of Acres.	No. of acres cleared.	No. of acres in tillage.	No. of Horses.	No. of Cattle.	No. of Sheep.	No. of Free Servants.	No. of Convict Servants.	
		Aggregate of Five Settlers.						
187,000	30,500	2,250	690	11,700	90,000	204	330	
		Australian Agricult. Compy.						
1,000,000	800	550	360	3,000	46,000	128	312	

The Council having attentively considered this subject in all its bearings, the quantity of land held by the Company, the favorable nature of its tenure, the improvements effected upon it, whether in the quantity cleared or in tillage, or in reference to the number of the different kinds of stock they possess, and to the number of free persons they employ, in comparison with the number of bond assigned to them, were of opinion that, if the Company were considered in the light in every respect of five first rate settlers, each of whom is entitled to seventy agricultural laborers and Mechanics according to the regulations of 9th May, 1835, they would be very adequately supplied with reference to a fair distribution of the quantity of this description of labor at the disposal of the Government.

With respect to the assignments to be made to the Company on account of the Colliery at Newcastle, the Council advised that they be kept up to 100 men as requested by the Commissioner, including such miners as can be spared from the Government service, it being understood that the Company will maintain free overseers or free special constables in the proportion of One for every Twenty assigned servants, and that those men, who are assigned to the Colliery, shall be exclusively employed at the same.

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

[Enclosure No. 2.]

LIEUT.-COLONEL DUMARESQ TO COLONIAL SECRETARY MACLEAY.

Sir, Port Stephens, 10th August, 1835.

I regret that it has not been in my power earlier to attend to your Letter of the 14th Ultimo. I have been prevented from so doing by the want of necessary information respecting the Company's Establishment at Newcastle. Delay in reply to letter.

Assignments of Men have been recently made to the Colliery, which the Returns in my possession did not notice.

1835.
6 Oct.

I beg now to transmit the form of application for Servants, filled up agreeably to your request.

Colliery
establishment
of A.A.
company.

The Colliery Establishment is as follows:—

Land held, 2,000 acres; Free Servants employed, 5; Assigned Do. Do., 64; (of whom upwards of 3 Years). 35; Do. Do. of 1 Year, 4.

Ten of the above Men are at present in expectation of obtaining Tickets of Leave.

Materials for
colliery
obtained by
contract.

It may appear, at first sight, that the proportion of free to convict labor at the Colliery is small; but I beg to point out that everything required for the Establishment, Prop Wood for the Pits, Shingles, Lime, Bricks, Timber and provisions of every description are procured by Contract, so that the expenditure necessary to purchase these articles may be stated to be equal, at least, to the employment of a large proportion of free labor, And is, perhaps, more generally beneficial. Until lately, a Blacksmith was employed at the Rate of £100 *per annum*. Our Bricklayer and Carpenter at present receive 5s. (five shillings) per day each; at the above wages we are unable to retain them; and it has been found impossible to replace the Blacksmith, except by the assigned servant now at work under the direction of the Engineer, who fortunately is himself a first rate Smith.

Miners
required.

With respect to the number of Men "required for the Coal Works, so as to work them to the extent desired," I beg to observe that, as this number must of course depend on the demand for Coals, it cannot be defined with anything approaching to precision.

Output of
colliery.

During the last three months, 3,604 Tons of Coals have been raised, sold, and consumed.

Task work
of miners.

The "Task" of a getter and wheeler is 2½ Tons per day, and, although I have had recourse to expedients, by which the men have been encouraged to exert themselves to the utmost, some of them have done little more than procure that quantity. A good workman, *when the coal is easy* to procure, will however get much more. In addition to the getters and wheelers, there are required Firemen, Men loading Vessels, and employed with the Wagons; together with many others, engaged in the details of works of this description.

Employees
at colliery.

Finding on my last visit to Newcastle that it was impossible to raise the coal required, and at the same time continue the work at the Fault, or prepare for sinking a second shaft, I was forced to discontinue those operations, and to employ the Men in getting Coals.

Inability to
produce surplus
coals.

By these means and exertions on the part of the Colliers, which I do not think it would be prudent, or indeed possible, to continue for any length of time, no great inconvenience has hitherto been experienced by the Public; but it has been impossible to obtain a Ton of Coals in advance; so that I have felt anxiety, lest accident should occur to the Machinery or impediments arise from other causes.

On Saturday the 18th Ultimo, the pipe of the Engine burst; and had that accident occurred on any other day of the Week, or before the Steamers had been supplied, a serious interruption to their navigation must have followed. Had not the "Tamar" laid by to repair and paint during that week, the Supply would have fallen short of the demand. It is thus we have labored on, in apprehension of the slightest check.

I have already stated that a further supply of 110 Tons of Coals per week will be required when the Hobart Town and "Ceres" Steamers are afloat.

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6 Oct.

I cannot therefore contemplate keeping pace with the present demand, guarding with common prudence against the chances of delay from some one of the numerous contingencies to which a Colliery is liable, with less than 100 men, of whom one half ought to be miners.

Men required to supply demand for coal.

It is my duty, as it is to the interest of my Employers, that I keep down the Establishment to its lowest limit; and His Excellency may be assured that I will endeavour to do so. I shall be at all times willing to submit for His judgment and criticism the arrangements I have made to this effect. I cannot conclude this communication without again acknowledging that the utmost attention has been paid to my applications for assistance, and every readiness has been evinced on the part of the Government to enable me to guard the Public against the inconvenience, which would result from the interruption of Steam Navigation or the detention of Vessels loading with Coals for Sydney and Hobart Town.

Assistance given by government.

I am the more desirous of repeating this acknowledgement, because I will take the liberty of Submitting that one of the conditions, on which the Coal Works were undertaken, is a Guarantee from the Secretary of State to the following effect.

"As the Government will cease to raise the coal, which will be required for the general use of the Colony, *every possible facility and encouragement for this object will be afforded to the Company*, so that no scarcity of this article may take place, and the quantity raised *be, as far as depends upon the assistance of Convict Labor, at all times, if possible, adequate to the demand.*"

Conditions of transfer of coal-mines.

I can add, from having had a long personal discussion with Mr. Huskisson upon this subject, that his wishes were no more than expressed, by the terms of the foregoing Extract from a Letter addressed by Mr. H. Twiss to the Directors of the A.A. Company.

A knowledge of these facts has emboldened me, from time to time, to address the Government with more freedom, than I should otherwise have used; as I would not on any account have had it thought that I trespassed unbecomingly on the disposition evinced to comply, as far as circumstances admitted, with my applications on the part of the Company.

I have, &c.,

H. DUMABESQ,

Commissioner for the A.A. Company.

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

SIR RICHARD BOURKE TO LORD GLENELG.

(Despatch No. 96, per ship Spence; acknowledged by lord Glenelg, 9th April, 1836.)

My Lord,

Government House, 7 October, 1835.

7 Oct.

With reference to my Despatch of the 17th July last, No. 61, by which I reported the loss of the Convict ship "Neva," wrecked on the 13th May last at the entrance of Bass's Straits in her passage for this Colony, I have the honor to forward for

Report re wreck of ship Neva.

1835.
7 Oct.

Transmission
of papers.

your Lordship's information Copies of Letters and Documents received from the Lieut. Governor of Van Diemen's Land, containing the particulars of an enquiry instituted at Launceston, under his direction, for the purpose of ascertaining the cause of the disaster.

I have, &c.,
RICHD. BOURKE.

[Enclosure No. 1.]

[A copy of this letter, dated 4th July, 1835, will be found on pages 37 and 38.]

[Enclosure No. 2.]

COLONIAL SECRETARY MONTAGU TO COLONIAL SECRETARY MACLEAY.

Sir, Colonial Secretary's Office, 27th August, 1835.

With reference to my letter No. 17293 of the 4th ultimo, acquainting you for the information of His Excellency General Sir Richard Bourke, with the loss of the Convict Ship "Neva," bound to New South Wales, I am now directed by Lieutenant Governor Arthur to transmit to you, for the purpose of being Submitted to Sir Richard Bourke, the accompanying Copies of a letter addressed to the Commandant at Launceston on this Subject, of a direction Conveyed to the Committee appointed to enquire into the particulars of the occurrence, and of two letters from the Committee, together with transcripts of the examinations of the Witnesses called before the Committee, and a plan of the portion of Basses Strait where the Wreck took place.

I have, &c.,
JOHN MONTAGU.

[Sub-enclosure No. 1.]

COLONIAL SECRETARY MONTAGU TO COMMANDANT AT LAUNCESTON.

Sir, Colonial Secretary's Office, 30th June, 1835.

In acknowledging your letter of yesterday, reporting the loss of the Convict Ship Neva bound to Sydney, I am directed to request that you will assemble a Board, Consisting of yourself, Lieutenant Friend, and any other person you may think proper to appoint, for the purpose of instituting the fullest enquiry into all the circumstances attending this melancholy occurrence, and reporting the particulars of the investigation at as early a period as possible.

Amongst other full enquiries it will be important to elucidate the following, namely,

The time the Vessel Struck, the precise State of the weather, was the Vessel furnished with the necessary Charts, the Australian Directory.

Was the night clear and Starlight.

Had any observation been taken for the latitude, as the Stars came to the Meridian.

Had there been a Meridian Altitude the preceding Noon?

Were there Chronometers on Board? And if so, had sights been taken the preceding afternoon and forenoon, or, if not, when the Longitude by Chronometer had been last ascertained.

Transmission
of papers re
wreck of ship
Neva.

Instructions
for board of
inquiry.

When the Longitude had been last calculated from Lunar observation? had soundings been tried for?

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7 Oct.

Was the Master on deck the whole of the night?

I have, &c.,

Instructions
for board of
inquiry.

JOHN MONTAGU.

P.S.—The Board is to examine the Surviving female Prisoners, and ascertain what their treatment was during the Voyage from the Surgeon, Master, etc., and what since the Wreck from the Master.

[Sub-enclosure No. 2.]

REPORT BY BOARD OF INQUIRY.

Sir,

Launceston, 6th July, 1835.

We have the honor to inform you that, in compliance with the orders of His Excellency the Lieutenant Governor, Communicated to us by your letter of the 30th ultimo, directing us to form a Committee for the purpose of enquiring into the circumstances attending the loss of the "Neva," female Convict Ship, which was bound from Cork to Sydney and wrecked off King's Island in Bass's Straits on the 13th day of May last.

Report by board
of inquiry re
wreck of ship
Neva.

We beg to inform you that we assembled on the 3d, 4th and 6th days instant for the above mentioned purpose, and, having called before us the whole of the Survivors who have arrived at this place, and having examined them separately and apart from each other, and having patiently and minutely investigated all the circumstances attending the Melancholy loss of this Ship, have the honor to report.

That it appears, from the testimony of the Survivors of this disastrous and heartrending Shipwreck, that the Vessel Sailed from Cork on the 8th day of January last, having on board 241 persons as per Schedule Marked A under the Superintendence of Mr. Stephenson, Royal Navy.

That the Committee have further ascertained that the Vessel was built at Hull in Yorkshire in the year 1818 and had recently undergone a thorough repair and was newly coppered; that she was a good and substantial Vessel and was well found in all kind of Stores, as well as furnished with two good Chronometers and other necessary instruments for the safe conduct of the vessel; that during the Voyage the greatest regularity appears to have been observed by every person on board, and the most humane attention paid to the unfortunate prisoners.

The Committee learn that, on the noon of the preceding day, the Ship was by good observation in the Latitude of the North point of King's Island, and distant from it by Calculation 90 Miles; that they then steered E.N.E. having the Wind at W.N.W. A good look out was kept for the Land which was discovered at 2 a.m. right ahead; that the Vessel was then hauled to the Wind on the larboard tack, for the purpose of clearing the Harbinger Reefs, being then as they Supposed Nine Miles from the Land, the Wind blowing Strong; the night was Moonlight with occasional clouds.

That, about five A.M., the Man on the look out reported breakers ahead, upon which the helm was put down and while in stays the Vessel struck upon a rock and unshipped the rudder. She then paid off before the wind and again Struck the reef and shortly after

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Report by board
of inquiry *re*
wreck of ship
Neva.

bilged. The Prisons having fallen down from the Violence of the Shocks which the Vessel received upon the reef, the women all flocked aft to the Cabin and Poop, while every effort was made to save their lives by lowering the boats, cutting away the Masts, etc.; the Gig was lost in the attempt to lower her; the Pinnace was launched over the Gunwale by Cutting away the Bulwark, the Surgeon, Master, some of the Women and Crew getting into her; but, a rush being made by the females into the Boat, she Sunk with all on board, the Master and two seamen only being able to regain the wreck; the long boat was next launched and every precaution taken to prevent a recurrence of the dreadful fate that had befallen the Pinnace, but the Sea almost immediately capsized the boat, and all who were in her with the exception of the Master and mate perished.

The Vessel, no longer able to bear the Violence of the sea, parted in four pieces, and the Poop deck falling in upon the unfortunate Women assembled below in the Cabin, it is feared must have crushed many of them to Death, and which will account for the Mutilated bodies which have been or which may yet be washed on Shore. Upon these pieces of the Wreck, the few Survivors were preserved and which were in number only Twenty two, and of these the Committee with the most painful feelings report, Seven were doomed to a Severer fate, having died by Cold and fatigue, *aided* if not caused by the inordinate use of Rum, which they procured from a Puncheon partly filled, washed on Shore from the wreck. Twelve of the Survivors named in the Schedule B are now at Launceston, they having been discovered and brought off by Mr. Charles Friend, who providentially heard of their distressed State and immediately went to their rescue.

In closing this report, the Committee have to state that they have paid the greatest attention to this Melancholy investigation, and have done their utmost to elicit the causes of this Sad occurrence, and feel it their duty to the Memory of the late Surgeon Superintendent and to the Master of the Vessel to State that it is their opinion that no blame whatever can be attributed to them, the officers or the Crew; that the reckoning appears to be as correct as possible, which must be inferred from their making the Land at the very time they expected, and the course Steered was Such as they conceive every judicious Seaman would have adopted, and which would under the usual circumstances have carried him at least fourteen miles to the Northward of the extreme point of the reef as laid down in the Chart.

The Committee can only attribute the Ship getting on the reef to the extraordinary Strength of the tide in the first instance, the reef being either improperly laid down or an erroneous opinion formed by the Master and Crew of their distance from the Land when the Ship hauled to the Wind, or more probably the concurrent influence of several Minute errors, which would united have caused the dreadful catastrophe upon which we are called to report. We annex the examinations as taken before the Committee upon which we have formed our opinions.

We have, &c.,

GEORGE DEARE, Major, Commandant.

W. LYTTLETON, Police Magistrate.

MAT. CURLING FRIEND, Lt., R.N., Port Officer.

Schedule A.

Mr. Stephenson, Surgeon Superintendent; Mr. B. H. Peck, Master; Mr. Joseph Bennett, First Mate; Mr. Laws, Second do.; Mr. May, Third do.; Twenty two Seamen and boys; Nine free Women; Fifty five Children; One hundred and fifty female Convicts, making in all Two hundred and forty one persons.

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7 Oct.Passengers,
convicts and
crew embarked
on ship *Neva*.

List of the Names of the Crew of the Barque *Neva*.—John Stephenson, Surgeon; B. H. Peck, Master; Joseph Bennett, First Mate; Wm. H. Laws, Second Mate; Charles Hagman, Third Mate; John May, Fourth Mate; Henry Hollis, Steward; Edwin Forbes, Carpenter; Anthony Edwards, Cook; William Wright, — Miller, William Kidney, Peter Robinson, Charles Willson, Thomas Sharpe, Thomas Haires, Edward Calthorpe, George Brown, Henry Pearson, Robert Bullard, Fredk. Pengally, William Bridger, John Faisey, — Foley. — Murray, Seamen; Joseph Firrell, Thomas Quinn, Boys.

Schedule B.

Mr. H. B. Peck, Master; Mr. Joseph Bennett, Mate; Robert Bullard, Thomas Sharpe, William Hine, Charles Willson, Henry Calthorpe, Seamen; Rose Ann Hyland, Ellen Galvin, Rose Ann Dunn, Ann Cullen, Mary Slattery, female Convicts.

Survivors
from wreck.

Left on the Island.—Margt. Drury, female Convict; Sydney Robinson, Seaman.

[Sub-enclosure No. 3.]

COLONIAL SECRETARY MONTAGU TO BOARD OF INQUIRY.

Gentlemen, Colonial Secretary's Office, 10 July, 1835.

The Lieutenant Governor having perused the whole of the examinations and your Report respecting the loss of the Ship "*Neva*," I am directed to remark that His Excellency is of opinion, from the position of the Vessel at noon on the 12th May, that the course stated to have been steered *should* have taken her clear of every danger, but it is remarkable that it is not stated in your Report nor can His Excellency discover by the evidence *where* the Vessel struck or how far from King's Island.

Further report
required from
board of
inquiry.

His Excellency presumes it must have been the *South* end of Harbingers Reef, but then he is at a loss to conceive how the Vessel came *there*.

I am to add that to have run down upon a lee shore at *night* was the extreme of imprudence, as the Vessel should have been hove to at 8 O'clock at night, and I am further to state that it will be advisable to ascertain whether the Vessel had usually over-run her reckoning; you will therefore be pleased to make a further Report on the points referred to in this letter. I have, &c.,

JOHN MONTAGU.

A true copy:—JOHN MONTAGU, Colonial Secretary.

[Sub-enclosure No. 4.]

REPORT BY BOARD OF INQUIRY.

Sir, Launceston, 17th July, 1835.

We have the honor to acknowledge the receipt of your Letter of the 10th Instant 17293/7, in which His Excellency the Lieutenant Governor has remarked that the course stated in our report to have been steered by the late Ship *Neva* ought to have taken

Letter
acknowledged.

1835.
7 Oct.

the vessel clear of the reef. We beg to observe that the Committee, being impressed with this fact, closely examined the Chief Mate and Crew of that Vessel and found their testimony quite to confirm the statement made by the Master, and beg to say that they are fully sensible of the great difficulty, they have to contend with in accounting for an accident, which (was not the melancholy fact before them) they should have considered could not under the circumstances have taken place; and, although the dreadful result could not in their opinion have been contemplated, yet they have no hesitation in attributing the cause as stated in their report to the extraordinary set of the Tide, aided possibly by the local attraction of the Ship upon the Compass, in the first instance, which threw the Ship so much to the South ward of their expectations and ultimately by the reef being improperly laid down on the Chart. The Ship having struck upon the Reef in the position marked C, and which His Excellency will perceive was either the N.W. point of the Harbinger reef or probably a detached portion of the reef where no danger was known to exist, the assumed distance from the Land being about three or four Leagues.

The Committee beg to call the attention of His Excellency to the position of the Ship at noon on the 12th Instant, as exhibited in the Chart marked D, the correctness of which they have no reason to doubt, by which it will be seen that the Ship was in a good fair Birth, the Channel well open, and a leading wind with the Moon at the full, and a good look out being kept during the Night.

Under these circumstances the Committee consider the Ship was subject to far less danger by running than by laying too, and which from the strength of the Tide must have set her to Leeward of King's Island into a channel far less safe and which will be evident from a reference to the Chart.

The Committee have made every enquiry "whether the Ship usually overrun her reckoning" and have ascertained that she was generally correct, and which they consider to be proved (as far as it may relate to the loss of the vessel) from the distance ran from the preceding noon to the period they made the Land, which agrees with the calculated distance. We send herewith a Chart of Bass's Straits, on which the points referred in the Report are delineated and have the honor to be, etc.,

GEORGE DEARE, Major, 21st Fusileers, Commandant.

WILLIAM LYTTLETON, Police Magistrate.

MAT. CURLING FRIEND, Port Officer.

JOHN MONTAGU, Esq., Colonial Secretary, a true Copy.

[Sub-enclosure No. 5.]

EXAMINATIONS.

3rd July, 1835.

TRUE Copies, JOHN MONTAGU, Colonial Secretary.

BENJAMIN HUTCHINS PECK states as follows:—I was Master of the late Barque Neva. We sailed from the Cove of Cork on the eighth day of January, 1835, with Female Convicts, free Women and Children. The Crew consisted of Twenty six Persons in all. We embarked at Cork, one Hundred and fifty female Convicts, nine free Women, and fifty five Children, under the Superintendence of Mr. Stephenson, Surgeon, R.N. One of the Crew, one female Convict and one Child died on the Passage; one female Convict gave

Opinion of
board *re*
probable cause
of wreck.

Examination
of B. H. Peck.

birth to a Child on the passage; having on board at the time of making the Land Two Hundred and thirty nine persons. The Neva was built in Hull, Yorkshire, and was at the time of the wreck seventeen years old, Coppered, and Copper fastened, of 337 Tons burthen. In December last, the Vessel was re-coppered, and thoroughly overhauled, and was well found in Stores. New sails were bent a few days before we made the Land. Two Chronometers, which I had on board, were correct at the time of making St. Paul's Island. We occasionally took Lunar observations, which were generally found to agree with the Chronometers. I cannot say when the last Lunar Observations were taken. The Weather was generally fine during the Voyage; the Ship was perfectly tight, also the Crew ordinarily quiet and obedient, the Convicts well behaved, with a few slight exceptions. On the twelfth day of May at Noon, we had good observations, the weather being fine; the Longitude by Chronometer was $141^{\circ} 57' E.$ Latitude $39^{\circ} 37' S.$ by Meridian Altitude of the Sun. I ordered the Ship to be steered E.N.E., which, allowing three quarters of a point Easterly variation, would carry the Ship fourteen Miles to the Northward of the Northern part of the Harbinger Reef; the night was fine moonlight with occasional clouds, fresh breezes at Midnight; at 1.30 A.M. double reefed Topsails, the Wind then freshening from W.N.W.; at two O'Clock A.M., we made the Land right ahead, which appeared to be about three Leagues off; the point we saw was that marked A upon the Chart. I had been on deck the whole night, with the exception of from twelve till two O'Clock, when I left the Chief Officer in charge, with strict directions to look out for Land. The Ship was in the position marked B; we were then under double reefed Topsails and Courses, and immediately hauled to the Wind. We lay N. to N. by E. by Compass. The north extremity of the Island was from two to three points open on the lee bow and appeared to be distant about three or four Leagues. We took no Star observations. We had on board Horsburgh's directions, last published by Norrie, and the latest Charts. We had not the Australian Directory on board. We did not try for Soundings. After standing on the Larboard Tack for about three hours, John May, who was specially appointed to the forecabin to look out, reported breakers to be a head; I went on deck at the time; I ordered the Helm to be put hard a starboard, and the Ship came immediately head to Wind, and at the same time struck with her keel on a rock under her stern, which unshipped the rudder; this was about 5 A.M.; she then payed off, back again and fitted. We let fly the head sheets, and shivered the head yards, for the purpose of bringing her to the wind again; but, the Ship gathering way before we could accomplish this, she struck the reef on the larboard bow, swung broad side on, the sea making a fair breach over her. We immediately hauled the Main sail up and braced the yards a box for the purpose of keeping the Ship steady upon the Rock. At this time she bilged and filled with Water. We then cut away the foremast and all the Topmasts, leaving the Mainmast and Mizen Mast standing for the purpose of taking to in case of necessity; she shortly after raised a midships, and the staunchions of the Prison fell down, on which the Prisoners all came on deck and ran towards the Poop and Cuddy. We endeavoured to lower the Gig which was on the larboard quarter, but, one of the Iron Davids

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Examination
of B. H. Peck.

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Examination
of B. H. Peck.

breaking, she swung by one end and was soon dashed to pieces. We then commenced getting the Starboard Cutter in upon the Poop and left her there, other people at the time clearing away the spars to get the Pinnace and Long Boat overboard. We then cut away the under frames and launched the Pinnace, the Sea breaking violently over the Ship and round her at the time. Five Men and myself got into her and were followed by the Surgeon. The Women then rushed into the boat and she sunk; they were all drowned but myself and two men. We again reached the Wreck, turned to and launched the Long Boat. Ten or twelve hands with myself and some females then got into her; shortly after the sea struck the Boat and turned her bottom upwards, and all were drowned but Mr. Bennett, Chief Mate and myself. We reached the Wreck again; shortly after, the Ship broke up, and her decks were thrown over the reef and broken into three or four pieces. About fifty or Sixty Men, Women and Children were clinging to pieces of the Wreck. I took then to the bits with about Twenty other Persons: the part of the Wreck, upon which we were, grounded at some distance from the shore in consequence of the heel of the foremast still hanging in the partners, and the surf breaking over us; all, with the exception of myself and two others, were washed off and drowned. We were eight hours in drifting to the shore from the Wreck. I swam off when the Wreck, upon which I was, grounded, and immediately after landing, which was about 4 O'Clock P.M. on the 13th, I went to see who had drifted on shore; returned to the assistance of Ann Cullen, who clung to the same part of the wreck as myself. She left the Wreck and got on shore. I then found that Twenty two Persons including myself had reached the shore, consisting of Twelve Convict Women, myself, Chief Mate and eight of the Crew. Part of a Puncheon of Rum was found upon the beach washed from the Wreck. I directed a quantity to be drawn into a bucket, and gave a dram to each individual; the remainder of the Rum, which was in the Bucket, I threw out. We then all went into the Bush and slept that night; when I got up, I found three Women lying on their faces dead, ten or twelve yards from me on the Sand, and on going along the beach we discovered three more, two just dying and one dead near the Rum cask, the whole six having landed alive. On the fourteenth of May, we picked up some flour and Pork, which had been washed on shore from the Wreck. We occupied ourselves for some days in collecting what we could find for subsistence from the Wreck. We then seperated, myself and two Men going in one direction along the beach, and the Mate and two Men in another; in two days we buried Ninety five bodies, which had been washed on shore. About a fortnight after we landed, two Men, who had been wrecked on the Island in a Vessel called the Tartar belonging to Mr. Charles Friend, came to us and informed us that there was a Sealer on the Island; the day after, a Party of us went in search of the Sealer, whom we found; he had dogs, by which we were supplied with Wallaby. We returned again to our own huts accompanied by the Sealer and his dogs. Shortly after Mr. Friend Commanding the Sarah Ann hove in sight, and anchored under New Year's Island, and, on hearing of the Wreck, left his Vessel and proceeded on foot to the place where we were, a distance of thirty five Miles. Mr. Friend, myself, and one of his Crew left our huts to proceed back to New Year's Island, leaving the Crew and Prisoners under the charge of the Chief Mate. We

reached Mr. Friend's Vessel the next morning. We embarked but, the Wind being unfavourable, we landed, and proceeded back to the Tents, bringing to the shore some pieces of beef which we left at a hut belonging to the Sealer, until they could be sent for by the Survivors of the Wreck. Two days afterwards, we returned to the Sarah Ann, got on board that night and proceeded on the following day towards Port Fairey. After getting within twenty miles of the Port, the Wind came away from the N.W. blowing hard. We then bore away for the New Year's Island; the Wind continuing from the N.W., we proceeded to the Tents where the Survivors were, and embarked them all with the exception of one Woman and Two Men, they being on another part of the Island. We proceeded then, twelve in number, for George Town, where we arrived on the Twenty sixth of June, and reported the circumstance to the Port Officer.

Question. How do you account for the Vessel having struck the Reef, when you were steering the course you have described from the position marked in the Chart?—*Answer.* I can only attribute it to the set of the Current, which carried us to the Southward a distance of Twenty five Miles as pointed out by Letter A upon the Chart.

Question. Do you consider the Harbingers Reef properly laid down on the Chart?—*Answer.* I do not consider them properly laid down on the Chart; they are in my opinion laid down too far to the Eastward.

Question. What was the usual routine observed on board, as to the management of the Convicts by the Surgeon Superintendent?—*Answer.* The Surgeon's conduct was most kind to the Prisoners and very exemplary in every particular; the Prisoners were regularly locked up at from 7 to 8 in the Evening in fine Weather, the key being kept chiefly by myself or Chief Mate.

For some days prior to the loss of the Neva, Mr. Stephenson the Surgeon Superintendent had been confined to his bed by Scorbutic Dysentery, and at the time was extremely ill. We had Eighteen Bales of Clothing and Thirty Puncheons of Rum belonging to the Government taken in at Deptford.

B. H. PECK.

JOSEPH BENNETT, 1st Officer of the Neva, states:—

I was Chief Mate of the Barque Neva of London, commanded by Mr. H. B. Peck. We sailed from Cork on the eighth day of January with One Hundred and fifty female Prisoners, nine free Women and fifty five Children bound for Sydney, New South Wales; the Crew consisted of Twenty six; making in all Two Hundred and forty one persons including the Surgeon Superintendent. We were fully victualled for Six months, and well found with Stores in every Particular. I considered her a remarkably strong, well built Vessel. She had a thorough repair about two years ago. I saw her opened, and know her to have been a good Ship. We lost three persons by death, namely one female Convict, one Seaman, and a Child, One Child was born on the passage. We had two Chronometers on board, which were quite correct when we made St. Paul's Island. We frequently took Lunar observations during the Voyage, which generally agreed with the Chronometers. The last Lunar Observation, which was taken, was between St. Paul's Island and King's Island. I cannot say on what particular day. It was on the whole a fair weather passage. We had some bad weather between the Cape and St. Paul's. Nothing particular occurred until the 12th of

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Examination
of B. H. Peck.

Examination
of J. Bennett.

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Examination
of J. Bennett.

May, when we were at Noon by good observation of the Sun in Latitude $39^{\circ} 36'$ S. and Longitude by the Chronometers $141^{\circ} 57'$ E., determined by an observation taken in the forenoon. I do not recollect if a corresponding observation was taken in the afternoon. The North part of King's Island was bearing East Ninety Miles by Calculation, the Wind W.N.W. blowing fresh, Weather clear. We steered E.N.E. from Noon, and kept a good look out for the Land, two Men being stationed on the fore-castle for that express purpose. It was a moonlight night, but the moon was occasionally obscured by Clouds. We took in Meridian Altitudes of the Stars, there being a heavy sea running that night and a hazy Horizon. The Captain was on Deck until 12 O'Clock that night. I relieved him. He gave me strict orders to keep a good look out for the Land, and to let him know the moment we made it, but which he expected we would not do, as he concluded from our course that we should pass Twenty miles to the northward of it. We did not try for Soundings. Between one and two A.M., we double reefed the Top-sails; the Jib and Mainsail were set. About two O'Clock A.M. we saw the Land right a head, the northern extremity of the Island bearing E.N.E. I hauled to the Wind, and called the Captain; he immediately came on deck, where he remained; about 5 O'Clock A.M. one of the Men on the look out reported Breakers a head; the Captain ordered the Helm to be put hard a starboard, which was done; the Ship was coming round when she struck aft, and knocked away the Rudder; she immediately payed off on the larboard Tack, bringing the Wind abaft the Beam, causing the Ship to gather way; she then struck the Reef on the larboard bow, and the following Sea threw her broadside on the Reef. She shortly after bilged and swung round bringing her larboard side on the Reef. We cut away the rigging to allow the Masts to go over the side. The prison at this time was all broken down, and the Women upon deck crowding the Poop and Cuddy. We lost the Gig in endeavouring to lower her, then turned to and got the Pinnace out by launching her over the larboard bulwark. The Master, Surgeon, and two Men then got into her, and a number of women following sunk the Boat; they were all drowned to the best of my belief but the Master. We then attempted to launch the long Boat, which we succeeded in doing. The Master, myself and about eight or ten more. Men and Women, got into her, but the Sea striking her upset her, by which all were drowned but the Master and myself. We got on board again. We then got the starboard quarter Boat off the Poop, and placed her ready for launching on the quarter deck, but just at that time the Ship broke up, the Poop falling in and upon the Women who were in the Cuddy. I think nearly one Hundred Persons were clinging to pieces of the Wreck, most of whom were washed off and drowned. I shifted from various pieces of the Wreck in consequence of the Women clinging to such as they saw I got hold of, and at last I reached the shore upon a piece to which four other Persons clung as well as myself. Twenty two Persons reached the Shore alive, of whom six women and a boy died, the Women that night, and the Boy I think next morning. I am of opinion they perished from cold and exhaustion though two of the Women were found near a Rum Cask. We picked up next morning two Casks of flour and several loose pieces of Pork, which were washed ashore from the Wreck, upon which we subsisted until a Sealer came round to us with his dogs, and who assisted to supply us with

Wallaby. The Doctor was rigid in his duty, but kind in his treatment of the Women: they were always locked up between seven and eight O'Clock P.M.; the conduct of the Women during the Voyage was with some exceptions generally good. Since the Wreck of the Vessel, the conduct of three of the Women has been good, two others indifferent, and one named Rose Hyland conducted herself very badly. The Evening We left King's Island, this Woman behaved herself most violently, taking a Gun which she said was loaded, and threatening to shoot Mr. Friend and myself, and with great imprecations wishing the Boat that took us to the Sarah Ann might sink. We were obliged to pinion her, but, when we got her into the Boat, she contrived to unloose herself, and in going through the surf she jumped overboard. We returned at great risk and secured her again, and were then obliged to tie her down in the bottom of the Boat. Her Language and Conduct were extremely violent.

I think the position of the Reef as laid down on the Chart is incorrect; it ought to be six or seven miles from the Land, instead of five as it appears upon the Chart. The Surgeon had been very ill for some days prior to making the Land, and kept his bed. One of the Women was always in attendance on him as Nurse.

J. BENNETT.

ROBERT BULLARD, Seaman, states:—

I was a Seaman on board the late Ship *Neva*. I joined her at Deptford on the 2nd December, 1834. She was tight, staunch, and strong, well found in Stores and well manned. Observations were taken, as is customary in other Ships to which I have belonged. The Ship was conducted in a Seaman like manner by the Master and Officers. The Surgeon was very kind to the Prisoners under his charge and attentive to his duty. The Prisoners were locked up every night at 7 or 8 O'Clock. On the twelfth of May, it was my Watch from 8 to 12 P.M. We were expecting to make the Land, Look Outs were placed forward. I had the look out myself from 8 to 10 P.M. The Hands were turned up about half past three A.M. to trim the Sails. I found the Ship, when I came on deck, on the Larboard Tack upon a bow-line but keeping full and by; I saw the Land on the Lee beam; I do not know how the Ship's head was then, but I was at the helm from 10 till 12, and she was then steering E.N.E. The Captain was on deck the whole of the first watch, as were all the men in the Starboard Watch. When I was called at half past three A.M. to trim the Sails, I found the Captain with the whole of the larboard watch on deck. When the sails were trimmed, I went below, and turned out again at 4 O'Clock. I relieved the Man who had the look out on the lee bow. Wright and May had also the lookout, May on the Windlas and Wright on the lee gangway. About 5 O'Clock A.M., I discovered Breakers ahead. I immediately gave notice to the Officer of the Watch. Mr. Bennett Chief Mate was on the Poop; the Helm was immediately put down. The Ship was coming to, when I think she struck forward first on a rock, and immediately after struck aft and unshipped her Rudder. We had at the time double reefed Topsails and Courses. The Ship then payed off and got before the Wind and struck upon another Reef to leeward, where she remained for about ten minutes when she bilged. The Staunchions of the Prison fell down and the Prisoners rushed aft into the Cuddy. We tried to lower the Gig down, but she was lost in the attempt. We cut the lanyards of the forerigging,

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Examination
of J. Bennett.

Examination
of R. Bullard.

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of R. Bullard.

and the mast fell over on the larboard side; the rigging of the mainmast was also cut away. We then launched the Pinnace. The Doctor and Nurse, the Master and other two Men then got into her, and the Women rushing in sunk the Boat, when all were drowned but the Master and two men. We then cleared away the long boat, launched her over the gangway and the Chief Mate and several men and Women got into her; the Boat was overset in the surf, and the Chief Mate and two other Prisoners were the only ones saved. Before launching the Boat, endeavours were made to prevent the Women crowding into her, but without effect; several got in and were launched in the boat, and were drowned when she upset. In about half an hour afterwards, the Ship went to pieces and every one was drowned except those who held on to pieces of the Wreck. I think about One Hundred succeeded in getting hold of pieces of the Wreck. Twelve Women, the Master and Mate, and Seven Men came alive to the Shore, out of whom six Women died during the night or early in the morning, and a Boy next evening. Everything was done that could be done on the piece of wreck in which I came to the Shore. Another man and myself made a Life line by which the Women might hold themselves fast to it. In my opinion, the Master and Officers acted throughout the whole Voyage and after the disaster in a seamanlike manner and with great humanity, doing everything in their power both before and after we landed to preserve the Lives of the Survivors. I do not think that any blame can be attributed to any one. The loss of the Ship was an accident which I cannot account for. Everything was conducted very properly during the Voyage.

ROBERT BULLARD.

THOMAS SHARP, Seaman, states:—

Examination
of T. Sharp.

I was a Seaman on board the late Barque Neva. I joined the Ship at Deptford in December last. We sailed from Cork in January last, and during the Voyage she never made any water of consequence. She was well found in all kinds of Stores and had a Crew of Twenty six, boys included. She was 337 Tons burthen. The Captain and Officers always conducted themselves in a Seaman like manner. The Doctor was a good Man; he appeared always to do his duty correctly. The Prisoners, whose conduct was deserving, had always the kindest treatment from him; they were punished in various ways, if they deserved it. We bent a good Sett of Sails a few days before we made the Land. On the twelfth of May, the day before we made the Land, we were steering E.N.E. I dont recollect how the Wind was. A good look out was kept for the Land, which we expected to make that night. I had the Middle Watch that night, and had the Wheel from twelve till two O'Clock, A.M. About two O'Clock A.M., we made the Land right a head; it appeared high on the weather bow, but not so high on the lee. We then hauled immediately to the Wind. I cannot say whether the Captain was on deck at the time. The Land was distant on our making it about three Leagues. It was a moonlight night, blowing fresh. We had just before double reefed the Topsails. I went below to lie down, but I did not do so. About an hour afterwards, I heard the man having the look out crying "Breakers a head." I immediately jumped on deck, and the Vessel then struck aft and unshipped her rudder; she payed off before the Wind, and run upon the Reef to leeward; she bilged immediately. The Captain was on deck. We cut away the lanyards of the forerigging, and the

foremast went by the board, the Mast falling to Port. We endeavoured to lower the Gig, but the Sea struck her and away she went. The Pinnacle was then launched, the Doctor, Captain, myself and another man got into her, but the Women crowding into the Boat sunk it, and I don't know that any others were saved besides myself and the Master. We then cut the chocks from under the long Boat and launched her; the Captain, first and second Mates were in her besides some Women. When she was lying alongside, the sea turned her bottom up and all were drowned but the Master and Chief Mate. She shortly after this broke up, and as many as could saved themselves by clinging to pieces of the Wreck. Twenty two Persons including myself reached the shore alive, of whom six Women and one Boy afterwards died. As far as I know, the Women were well treated. I never saw any instance of ill treatment by any one belonging to the Ship.

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—
Examination
of T. Sharp.

THOMAS SHARP.

WILLIAM HINE, Seaman, states:—

I was an ordinary Seaman on board the late Barque Neva. I joined the Ship at the Cove of Cork. I considered her a Ship well found in every particular, and very tight. During the Voyage the business of the Ship was conducted in a Seamanlike manner by the Captain and Officers. Observations were taken as I have been accustomed to see them in other Vessels. The Doctor appeared to me to do his duty to the Prisoners in a kind and correct manner. I saw the Land, when I came on deck at 4 O'Clock A.M. of the 13th May; it was on the starboard quarter. The Captain and Officers were all on Deck. Men were on the look out, when one of the Men called out Breakers a head. They then tried to stay the Ship, but she did not come round. She then struck aft and unshipped the Rudder; she shortly after bilged and filled with water. Every effort was made to save the People by getting the Boats out, but they were all lost, and the Ship shortly afterwards broke up. I do not know exactly how many landed alive; but at present I know there are fifteen. There was no neglect on the part of the Captain and Chief Mate towards anyone. Three Puncheons of Rum half full were washed on shore, and, whilst we were on the Island, we had as much Rum as we liked by going to fetch it.

Examination
of W. Hine.

WILLIAM HINE.

ROSE ANN HYLAND, a Prisoner per Neva, states:—

I am a Native of the County of Down in Ireland. I embarked at Cork with other prisoner Women on board the late Ship Neva. For the first three Weeks after sailing, the Provisions were short in quantity, but the Captain upon a complaint being made to him took the duty of issuing the Provisions upon himself, and after that everything was quite right. I have no complaint to make against the Master or Superintendent or any of the Crew; they always did their duty correctly as far as related to the Prisoners. When the Ship struck, I was in bed in the black hole that night. I got up and, observing the water rushing in, I and another Woman broke open the black hole Prison door and went into the main prison. The Captain ordered the ladder to be hauled up, and that we, who had been in the black hole, were to be kept down, but myself and other two succeeded in getting on deck. Most of the other Women, who had been in the main prison, had got on deck and into the Cuddy where they were drinking, and some of them were so drunk as to be unable to help themselves. I was on the Poop when the

Examination of
R. A. Hyland.

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R. A. Hyland.

Ship opened, and it fell in when there were several Women drinking in the Cuddy. I stuck to this part of the Wreck, and went some part of the way on Shore upon it. When we came close to another part of the Wreck, upon which were some of the Sailors, I endeavoured to get upon it, when one of the Sailors caught hold of me and pulled me upon it. I fell off and was a second time caught hold of by the same man, and placed again upon the Wreck. When we got near the shore, this Man (Sharp) jumped off the wreck and carried a Boy on Shore; he returned for me, and then for another woman. I have no complaint to make of any person since the Wreck. As far as relates to my own conduct on the morning of leaving the Island, I only left the Boat to go back for some shirts, having had a little rum which had got into my head.

ROSE ANN HYLAND.

ELLEN GALVIN, a Prisoner per Neva, states:—

Examination
of E. Galvin.

I am a Native of Limerick; Tried at Limerick, 1834; I don't know the Month; Sentence 7 years. I was embarked on board the Neva Transport in the Cove of Cork. We sailed from the Cove of Cork in the month of January last. We were all placed under the charge of the Surgeon Superintendent; during the voyage and up to the time of the Wreck of the Vessel, the Doctor, Captain and Mates behaved to us like Fathers; the Provisions were good, and there could be no cause of complaint; the Sick were regularly attended to and supplied with all the comforts they could require. It was the practise to lock the prison in which we were confined about 7 O'Clock. The Surgeon accompanied by the Captain came every evening, locked the door and put handcuffs upon it. No intercourse was permitted during the Voyage between the Prisoners and any of the Crew; the Prisons were regularly cleaned every day; there was little sickness during the Voyage; the dress of the Prisoners was inspected every day; I have heard of no causes of complaint during the Voyage. On the Ship striking, the Captain immediately came down, unlocked the door and released all the Women Prisoners, as well as those in the black hole, and desired us all to come on deck, and he would do what he could to save our lives. We all proceeded on deck; on the first boat being launched, a number of Women crowded into it and sunk it. Every thing was done by the Captain and Officers that could be done to save our Lives. I was saved by the first Mate. My Mother and Sister were on board; they were both drowned. Eleven Women besides myself reached the Shore through the assistance of the Captain and Crew. The day after we landed, two casks of flour, some beef, Wine and Rum were washed on shore. The flour and beef were served out to us in equal quantities by the Captain; the Spirits were served out with caution. We were all treated with the greatest kindness by the Captain throughout the Voyage and since the Wreck. We were landed at George Town from whence we were brought to the Factory at Launceston.

her
ELLEN X GALVIN.
mark.

ROSE ANN DUNN, a Prisoner per Neva, states:—

Examination
of R. A. Dunn.

I am a Native of Kingscote, County of Cavin in Ireland. Tried at Cavin in 1831, Sentence 7 years. I am Twenty One years of age. I was embarked on board the late Ship Neva in the Cove of Cork in

January. I have no complaint of any kind to make; the Provisions were good, and the Captain and Doctor behaved to us with the kindness of Fathers. The Sick were regularly attended, the Prisons cleaned out every day, the Prisons locked every night in the presence of the Doctor. There was no kind of intercourse between the Women and the Crew. I was the last Woman who came on the deck after the Ship struck. I went into the Cuddy where I saw some Women crying and some in liquor; the Poop fell shortly after this, and I crawled out by a hole. I clung to pieces of the Wreck and reached the shore. I received my share of Provisions on shore in common with the rest, and the Captain never denied me anything which was in his power. The Crew were all kind to us, and I have nothing to complain of.

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Examination
of R. A. Dunn.

her
ROSE ANN X DUNN.
mark.

ANN CULLEN, a Prisoner per Neva, states:—

I am a Native of Queen's County, Ireland, Tried at Kilkenny, July, 1834, Sentence 7 years. I am Twenty three years of age. I was embarked on board the late Ship Neva in the Cove of Cork in January last. During the Voyage, we had the greatest kindness shewn to us both by the Doctor and Captain. I have no cause of complaint whatever. After the Wreck of the Vessel, the Captain did all he could to make us comfortable, and gave us all an equal share of Provisions until we were taken off the Island.

Examination
of A. Cullen.

her
ANN X CULLEN.
mark.

MARY SLATTERY, a Prisoner per Neva, states:—

I am a Native of Tralee, County of Kerry, Ireland. Tried at Tralee in January, 1834, Sentence 7 years. I am Nineteen Years of age. I was embarked on board the Neva on the 4th of January and sailed from the Cove of Cork on the 7th January last. During the Voyage, the conduct of the Captain, Doctor and Officers of the Neva was of the best description. After the Wreck of the Vessel, those who were saved experienced the kindest treatment from the Captain and Survivors of the Crew.

Examination
of M. Slattery.

MARY SLATTERY.

CHARLES WILLISON and HENRY CALTHORPE, seamen on board the late Barque Neva, state that they have heard the statement made by William Hine and that the circumstances therein related are correct.

Statement by
C. Willison and
H. Calthorpe.

CHARLES WILLISON.
HENRY CALTHORPE.

STATEMENT OF MR. CHARLES FRIEND, commanding the Sloop "Sarah Ann" on his passage to the Whaling Station Coast* of New Holland. On passing the North point of King's Island, I observed Fires. I anchored under the New Year's Isles, and landing on the N.W. end of King's Island traversed the beach and Rocks about 35 Miles, until I reached Mr. B. H. Peck with the Men and Women Survivors from the Wreck of the "Neva," as also the Crew of the "Tartar" Cutter belonging to myself, which had been wrecked on the same Island.

Statement
by C. Friend.

In proceeding along Twenty Miles of Beach and Rocks, I could discern nothing more than detached pieces of Wreck and Staves of Casks.

After consulting with Mr. Peck, I determined to proceed with the first fair Wind for the Fishery, taking Mr. Peck with me. Therefore

* Note 38.

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Statement
by C. Friend.

after landing some provisions for the remaining Crew, I proceeded to Sea; but, falling in with contrary gales of wind when within 30 Miles of the Port, I was driven back and ultimately obliged to bear up for King's Island, anchoring off the Tents. I launched my Whale boat and succeeded in bringing off the Survivors with the exception of two Men and one Woman, who were on the other side of the Island. I made the best of my way to George Town where I delivered them up on the 26th of June.

From experience I am aware of the uncertainty of the Currents in Bass Straits. The tides run thus:

Ebb to Southward; Flood to Northward
at a rate carrying from $1\frac{3}{4}$ to $2\frac{1}{2}$ Miles an hour, more particularly when in the vicinity of King's Island. I have more than once been between the Harbingers Reefs and King's Island. I consider the Reef to lie 9 or 10 Miles off and more to the Westward than laid down on the Chart.

I took the precaution of running through the Harbingers Reefs this last time, coming from the N.W. and heading in towards the North point carrying a clear passage of from 5 to 6 Miles, having breakers in sight on each side of me, which proves that they are detached clusters of Rocks and not a solid Reef as pointed out by Captain Flinders on his Chart.

The Captain and Mr. Bennett, during my stay on the Island and on board my Vessel, used every exertion in their power to keep up good order and subordination, and I feel thankful to them for the assistance they rendered me in preserving my boat from being stove when beaching in the Surf. I left my three men on King's Island, two of whom were away when I sailed, supplying them with dogs until a Vessel should call for them; they are destitute of everything as well as Scott the Sealer, all of whom suffered by the loss of the "Tartar."

[Unsigned.]

Launceston, 4th July, 1835.

UNDER SECRETARY HAY TO SIR RICHARD BOURKE.

(Despatch per ship Recovery.)

Sir,

Downing Street, 8th October, 1835.

8 Oct.
Proposed bonds
for good
conduct from
masters and
mates of
immigrant
ships.

I am directed by Lord Glenelg to transmit to you the copy of a Letter, which has been received from Mr. Forster the Chairman of the Female Emigration Committee, suggesting the propriety of taking Bonds from the Master and Mates of all Ships, which may be engaged for the conveyance of Female Emigrants to New South Wales in order more effectually to secure good conduct on their part during the Voyage; and stating their opinion that the payment of a small Gratuity to each of those Officers, in addition to that which is given to the Surgeon Superintendent (the whole of such Gratuities to be paid by you on their arrival in the Colony, and to be entirely dependant on your approbation of the manner in which they may have discharged their respective duties) would operate very beneficially in producing the desired effect.

Gratuities
proposed.

Lord Glenelg fully concurs with the Committee in the beneficial tendency of such an arrangement to the service in question; and I am therefore directed by his Lordship to request that you will pay to the respective Officers of the "James Pattison," which leaves Ireland on the 28th Instant, as well as to the Officers of all succeeding Vessels, the following Gratuities, viz.:—

To the Surgeon, £50; The Master, £25; Chief Mate, £15; Second Mate, £10.

The Secretary of State directs me to observe, however, that these Gratuities must only be given in cases, where you may consider them to be deserved, and not as a matter of course; and, at the same time, I am desired by his Lordship to remind you of the necessity of proceeding against those parties, whenever any infraction of the Bond should render them liable to the Penalties.

I am, &c.,

R. W. HAY.

[Enclosure.]

MR. E. FORSTER TO UNDER SECRETARY HAY.

Sir, Emigration Committee Room, 12 September, 1835.

The Emigration Committee, anxious to secure the best moral Government on board their Vessels, have considered it important, as they intimated to you on a former occasion to take bonds from the Master and Mates in order more effectually to secure correct conduct on their parts; but they are of opinion that the payment to each of these individuals of a small gratuity for satisfactory behaviour during the Voyage, such payment to be entirely dependent on the Governor's approbation of their conduct, would operate very beneficially; The Committee therefore submit to you that, in addition to the £50 payable to the Surgeon-Superintendent as sanctioned by you in the early part of this year, the sum of £25 be paid to the Master, £15 to the Chief, and £10 to the Second Officer, provided as above mentioned the Governor of the Colony, to which the Ships respectively proceed, shall entirely approve their conduct and management on board, making in the aggregate to the Surgeon-Superintendent, the Master and Officers, the sum of £100; and they therefore beg leave to submit to you, for the sanction of Lord Glenelg, that instructions be sent to the Governor of New South Wales and Van Diemen's Land to pay these several sums to the respective parties by each Ship on the completion of the service, provided the Governors shall be satisfied that the conditions of the bond have been well and faithfully fulfilled, and the Committee will cause the bond, duly executed, to be transmitted to you in time to forward it to the Governor by each vessel, in order, if circumstances should at any time call for such a course, that the parties may be proceeded against in the Colony for the penalties to which they will be subject for the infraction of its obligations.

I have, &c.,

EDWARD FORSTER,

Chairman of the Emigration Committee.

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8 Oct.

Instructions
for payment
of gratuities.

Proposed bonds
to be given by
masters and
mates of
immigrant
ships.

Gratuities
proposed.

1835.
8 Oct.

SIR RICHARD BOURKE TO LORD GLENELG.

(Despatch No. 97. per ship Spence; acknowledged by lord Glenelg.
27th April, 1836.)

My Lord, Government House, 8 October, 1835.

In reply to the Earl of Aberdeen's Despatch of the 12th March last, No. 31, upon the subject of printing the Indents of Convicts transported to this Colony, I have the honor to transmit a sheet as a specimen of the publication. The printing of a Sheet is obtained here by Contract for £1, and the Indents of the year 1832, which is complete, cost at that rate £230. One Hundred copies are struck off for distribution, of which the binding costs about £55, leaving the whole charge for the year to amount to £285.

It will be seen from the very great pains taken in the description of the Prisoners that this document could not be compiled with advantage out of the Colony, and it follows that it is most convenient to print it here likewise. I cannot therefore recommend that any change should be made in the existing arrangement. The Indents from 1830 inclusive to the latest period of the present year are nearly printed, and I do not propose to go much farther back than the year 1828. The frequent movements of Convicts to Sydney for identification, which this publication will prevent, caused an expence which it is not easy to calculate exactly, but which probably much exceeds the charge of printing; whilst the advantage to be gained in the prompt administration of the Laws affecting the Convicts, and the convenience and security afforded to Magistrates by reference to the Document, are of considerable importance.

I have, &c.,

RICHD. BOURKE.

LORD GLENELG TO SIR RICHARD BOURKE.

(Despatch No. 55, per ship Recovery; acknowledged by
Sir Richard Bourke, 26th February, 1836.)

9 Oct.

Sir, Downing Street, 9th October, 1835.

I have to acquaint you that considerable delay has occurred in acting upon several of your late despatches, from the circumstance of the duplicates having reached this Department, unaccompanied by their Enclosures, long before the arrival of the originals; and I would, therefore, suggest the convenience of the duplicates of your despatches being perfected in every case where it may be possible to do so.

I am, &c.,

GLENELG.

Specimen sheet
of indents of
convicts.

Cost of printing
of indents.

Necessity for
printing of
indents in
colony.

Advantage of
printed indents.

Delay caused
by incomplete
duplicates of
despatches.

SIR RICHARD BOURKE TO LORD GLENELG.
(Despatch No. 98, per ship Spence.)

1835.
9 Oct.

My Lord, Government House, 9 October, 1835.

I have the honor to forward a nominal Return of Convicts arrived in New South Wales during the years 1833 and 1834, shewing the manner in wh. they have been disposed of in the Colony. These Returns will now be complete to the end of the year 1834, those for the years from 1828 to 1832 inclusive having been forwarded with my Despatch, No. 50, dated 17th May, 1834, which must have arrived soon after Mr. Secretary Spring Rice's Despatch of the 29th October of that year was written.

Nominal returns
of convicts and
their disposal.

I trust that the delay, of which Mr. Rice complains, in forwarding these Returns may be considered as explained satisfactorily in my Despatch of the 2d May, 1834, No. 42.

I have, &c.,

RICHD. BOURKE.

[Enclosure.]

[*This return has been omitted.*]

LORD GLENELG TO SIR RICHARD BOURKE.
(Despatch No. 56, per ship Recovery.)

Sir, Downing Street, 10th October, 1835. 10 Oct.

I have had under my consideration your dispatch No. 35 of the 10th of March last, enclosing a Memorandum from Captain Rossi, in support of a claim which he has advanced to receive the remission money in the purchase of Land which is allowed to Military and Naval Officers leaving the Service with a view to settle in the Colony.

Despatch
acknowledged.

As Captain Rossi had already received a Grant of Land, he would not under ordinary circumstances have been eligible for the indulgence for which he applies; but, as there appears to have been a distinct understanding that, upon his retiring from his Office of First Police Magistrate, an exception should be allowed in his favor from the operation of the general rule, I have no hesitation in sanctioning a compliance with his application.

Remission of
purchase money
on land for
F. N. Rossi.

I am, &c.,

GLENELG.

SIR RICHARD BOURKE TO LORD GLENELG.
(Despatch No. 99, per ship Spence; acknowledged by lord Glenelg. 13th April, 1836.)

My Lord, Government House, 10 October, 1835.

Being informed by the Lieut. Governor of Van Diemen's Land that several British Subjects connected with that Colony have taken possession of a tract of Land on the South Western*

Occupation of
land at Port
Phillip.

1835.
10 Oct.

Claim by
J. Batman and
others to land
obtained by
treaty with
natives.

Opinion of
G. Arthur *re*
claim.

Protest by
Sir R. Bourke.

Proclamation
issued by
Sir R. Bourke.

Questions of
policy in
permitting
occupation of
land at Port
Phillip.

Coast of New Holland in virtue of a Treaty* with a Tribe of Aboriginal Natives, it becomes my duty to report to Your Lordship this intrusion upon part of the Territory† described in the Commission which I have the honor to hold from His Majesty. The particulars are contained in the correspondence which has passed between Mr. Batman, a Settler of Van Diemen's Land, and the Government of that Island. Copies of that Correspondence, received by me from Lt. Governor Arthur, accompany this Despatch. From Mr. Batman's Letter, your Lordship will perceive that this gentleman and his associates rest their claim to a recognition by H.M.'s Government of their Treaty with the natives rather on the merits of their Undertaking than upon any Title to the Land which that Treaty is presumed to convey. It also appears that Colonel Arthur, without holding out any prospect of such recognition, has undertaken to submit their case to H.M.'s Government, and entertains a favorable opinion of the parties. To him therefore as the officer under whose immediate charge those Parties reside, I would leave the representation of every particular regarding their personal character, views and resources; but I have considered it incumbent on me immediately to protest against any consequences derogatory to the Rights of the British Crown that might be imagined to flow from the alleged Treaty. I have accordingly issued, with the advice of the Executive Council of this Colony, a Proclamation‡ of which I transmit a Copy. It is not my present intention, and I shall probably not see cause to take any other step in this matter until I have had the honor to receive Your Lordship's commands on the subject. In the meantime, there is little doubt that Mr. Batman and his Party will continue to convey Cattle to Port Phillip and to invest Capital in building and other improvements at that Place.

Having thus briefly laid before your Lordship the present state and probable progress of this unauthorised expedition, I may perhaps be permitted to offer some observations upon the Policy of allowing the occupation of Land so distant from the seat of Government and other located parts of the Colony. To Mr. Batman's proceeding there appear weighty objections, not only in the irregular mode he has had recourse to for obtaining Land, but on account of the absence of any provision for the control and Government of the Inhabitants of the intended Settlement. It is hopeless to expect that any precautions he can adopt in the choice of Shepherds and Laborers will preclude occasional disorders among a Population, wholly released from legal restraint. In such Emergencies, there will be no accessible authority,

* Note 40.

† Note 41.

‡ Note 42.

Military or Civil. The undertaking must sooner or later prove a total failure unless supported by the interference and protection of Government. If this support be afforded, it is but reasonable that the Settlement should contribute to the Revenue of the Government, which upholds it, and that its Lands should be acquired under the general Regulations of this Colony, or under such others as His Majesty's Government may think fit to impose.

1835.
10 Oct.

Questions of policy in permitting occupation of land at Port Phillip.

I have before had occasion to submit to the Secretary of State the opinion I entertain of the propriety of extending in a Southern Direction the limits within which Land may be acquired from the Crown in New South Wales. On this subject, I beg leave to refer your Lordship to My Despatch of the 4th July, 1834, No. 59, in which I communicated a proposal of Mr. James Atkinson for the Settlement of Twofold Bay by means of Emigration from the North of Ireland. Though I objected to Mr. Atkinson's plan in many particulars, I expressed myself in favor of an extension of the limits of location as far as Twofold Bay, provided the Lands were to be disposed of under the Existing Regulations. In this opinion, however, I was not honored with the concurrence of Your Lordship's Predecessor. The Earl of Aberdeen has stated, in his Despatch of the 25th of December last, that "His Majesty's Government are not prepared to authorize 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."

Proposals for extending limits for locating of lands.

After this intimation, it is only on account of the question being forced upon me by the transaction I have related, that I am induced to revert to the subject. In recurring to it, I am bound to state that further reflection, and the advantages of personal observation afforded by a recent excursion to Twofold Bay and the neighbouring Country, have more strongly than ever impressed me with the correctness of the opinions expressed in my Despatch of July, 1834. On the Excursion alluded to, I found the greater part of the vast tract of fertile Land lying between the County of St. Vincent's and Twofold Bay depastured by Flocks and Herds, attended by Shepherds and Stockmen, the pastures already contributing largely to the wealth of the Colony and exceeding in importance many of the Districts where Land is disposable by Sale or on Lease. An Export of live Stock from Twofold Bay to Van Diemen's Land had commenced and is likely to increase and a considerable supply of grain and other agricultural produce would in all probability be furnished from that District for the Sydney market in the event of the Land there being thrown open to purchase.

Export of live stock from Twofold bay.

1835.
10 Oct.

Objections to
restriction of
grazing to areas
for location.

Admitting, as every reasonable person must, that a certain degree of concentration is necessary for the advancement of wealth and civilization, and that it enables Government to become at once efficient and economical, I cannot avoid perceiving the peculiarities which, in this Colony, render it impolitic and even impossible to restrain dispersion within limits that would be expedient elsewhere. The Wool of New South Wales forms at present, and is likely long to continue its chief wealth. It is only by a free range over the wide expanse of native Herbage, which the Colony affords, that the production of this staple article can be upheld at its present rate of increase in quantity, or standard of value in quality. The proprietors of thousands of acres already find it necessary, equally with the poorer settlers, to send large flocks beyond the present boundary of location to preserve them in health throughout the year. The Colonists must otherwise restrain the increase, or endeavor to raise artificial food for their Stock. Whilst Nature presents all around an unlimited supply of the most wholesome nutriment, either course would seem a perverse rejection of the Bounty of Providence, and the latter would certainly require more labor than can at present be obtained in the Colony, or Immigration profitably supply. Independently of these powerful reasons for allowing dispersion, it is not to be disguised that the Government is unable to prevent it. No adequate measures could be resorted to for the general and permanent removal of intruders from waste Lands, without incurring probably a greater expence than would be sufficient to extend a large share of the control and protection of Government over the country they desire to occupy. One principal objection to dispersion thus becomes as powerful against its restraint.

I do not, however, mean to admit the claim of every wanderer in search of pasture to the protection of a Civil or Military Force. The question, I would beg leave to submit, is simply this: How may this Government turn to the best advantage a state of things, which it cannot wholly interdict? It may, I would suggest, be found practicable by means of the sale of Land in situations peculiarly advantageous, however distant from other locations, to procure the means of diminishing the evils of dispersion, and, by establishing Townships and Ports and facilitating the intercourse between the remote and more settled Districts of this vast Territory, to provide, though but imperfectly, centres of Civilization and Government, and thus gradually to extend the power of order and social union to the most distant parts of the wilderness.

Proposal to
establish
detached
townships and
ports.

Such are the considerations, wh. rendered me unwilling to oppose the Settlement of Twofold Bay. The same considerations induce me to believe that it will be more desirable to impose reasonable conditions on Mr. Batman and his associates than to insist on their abandoning their undertaking. I would propose that a Township* be marked out both at Twofold Bay and in some eligible spot on the Coast, to which Mr. Batman's party has proceeded. The Town Allotments and a portion of the adjoining Territory might then be declared open to location according to the existing Regulations, and I have no doubt that in both places considerable purchases would at once be made. The proceeds might be at first excepted from the Rule, which assigns this Branch of Revenue as a fund for encouraging Emigration, and applied in the beginning towards defraying the expences attendant upon the New Settlements. The outlay would chiefly be required for the Survey and measurement of the Land, the Appointment of a Police Magistrate, with a Constabulary Force, and of an Officer of Customs. I would also earnestly recommend that a provision be made for Schools, in which the Children of persons of different religious tenets may be instructed without distinction on the plan now adopted in Ireland. The means of Education being secured, I should feel disposed to leave it to the voluntary Contribution of the Inhabitants to provide for Churches and Clergy. To aid all alike, where the creeds are various, seems impossible, and a partial distribution of the public funds appears nearly allied to injustice. In the event of a Township being established at Twofold Bay, it would be desirable to form a road from thence to Minaro Plains, a part of which would pass over a rocky range of Mountain. The remoteness of this work would render it a very desirable employment for the Convicts of the second class sent here to labor for a certain period on the public works before assignment to Settlers.

I beg leave to observe here that it is in consideration of the Capital expended by Mr. Batman and his associates that I am inclined to recommend so early an occupation of Port Phillip. This measure would have otherwise appeared to me premature, and I should have preferred witnessing the success of the nearer Establishment at Twofold Bay before suggesting the more distant Settlement. It is with reference to Van Diemen's Land chiefly that the occupation of Land in the neighbourhood of Port Phillip may be regarded as advantageous. I consider Twofold Bay to be ripe for Settlement as sufficient advantages are already derived from the Lands behind it to admit of their purchase (by the occupiers and others) being rendered the means of the gradual

1835.
10 Oct.

Townships
proposed at
Twofold bay
and Port
Phillip.

Land to be sold
and appro-
priation of
proceeds.

Road proposed
to Monaro
plains.

Reasons for
recommending
occupation of
Port Phillip.

* Note 43.

1835.
10 Oct.
Inability to
prevent
dispersion.

introduction of the various Institutions of Society. To refrain from their introduction, thro' the fear of encouraging dispersion, is, I am persuaded, a fallacious policy. The dispersion will go on, notwithstanding the discouragement, but accompanied by much evil that might be prevented by the guidance and control of authority opportunely introduced.

I have, &c.,

RICHD. BOURKE.

[Enclosures.]

[Copies of these papers will be found in a volume in series III.]

LORD GLENELG TO SIR RICHARD BOURKE.
(Despatch No. 57, per ship Recovery.)

11 Oct.
Despatch
acknowledged
re removal of
E. A. Slade.

Sir,

Downing Street, 11th October, 1835.

I have to acknowledge the receipt of your Dispatch No. 38 of the 22d of March last, with various enclosures explaining the circumstances attending the removal of Mr. E. A. Slade from the Office of third Police Magistrate at New South Wales.

I perceive from your Dispatch that Mr. Slade voluntarily resigned his Office; but, had that not been the case, the circumstances, which were brought before the Public affecting his character, were of such a nature as to have rendered his removal from the situation which he held indispensably necessary.

I am, &c.,

GLENELG.

SIR RICHARD BOURKE TO LORD GLENELG.
(Despatch No. 100, per ship Spence; acknowledged by lord Glenelg, 29th April, 1836.)

My Lord,

Government House, 11 October, 1835.

Request by
C. Sturt for
exemption from
quit rent.

In forwarding the accompanying Memorial from Captain Charles Sturt, praying that the Land, which he has lately received by order of His Majesty's Government, should be exempted from the payment of Quit Rent, I have the honor to represent to Your Lordship that the Statements of Captain Sturt contained in his Memorial are well founded, and that he is supported by the facts* in alleging that Mr. Hume, who accompanied him on his first expedition, and Mr. George McLeay, who was his associate in the last, both received Grants of Land for those services from my Predecessor upon which no Quit Rent is charged. It has been

* Note 44.

the practice of this Government for some time past to grant Lands free of all such charges when given in reward for services performed or in compensation of loss. Under these circumstances, I trust the application of Captain Sturt may meet with a favorable reply.

1835.
11 Oct.

Request by
C. Sturt for
exemption from
quit rent.

I have, &c.,

RICHD. BOURKE.

[Enclosure.]

[A copy of this memorial is not available.]

LORD GLENELG TO SIR RICHARD BOURKE.

(Despatch No. 58, per ship Recovery.)

Sir, Downing Street, 12th October, 1835.

12 Oct.

I have to acknowledge the receipt of your Dispatch No. 43 of the 1st of May last, reporting the Appointing of a Schoolmaster for the instruction of the Convicts at Goat Island and on board the Hulk moored off that Island; and I have to acquaint you that His Majesty's Government approve of that appointment, and of the salary which you have attached to it of £100 per annum to be defrayed by the Commissary from the Funds applicable to Convict charges.

Approval of
appointment of
schoolmaster at
Goat island.

I am, &c.,

GLENELG.

SIR RICHARD BOURKE TO LORD GLENELG.

(Despatch No. 101, per ship Spence; acknowledged by lord Glenelg, 12th April, 1836.)

My Lord, Government House, 12 October, 1835.

In my Despatch of 19th July last, No. 63, I informed the Secretary of State that I had, in conformity with the Instructions of Lord Visct. Goderich, sent out an Exploring Expedition with directions to proceed down the River Darling and trace its course to the Sea. With that Despatch, I transmitted a Copy of the Instructions I had given to the Surveyor General, Major Mitchell, whom I employed on that service. This Officer having lately returned, I have the honor to forward for Your Lordship's information a printed Copy of the Report he made to me on his reaching the Frontier. A detailed Memoir of his journey,* with a Map and Copy of his Journal, is in preparation and will be transmitted when complete. It seems probable that the River Darling flows into the Murray at the point indicated by Captain Sturt, but the fact had not been determined, when Major Mitchell found it necessary to retrace his Steps towards the Colony. It is

Exploration of
Darling river by
T. L. Mitchell.

Probable
junction of
Darling and
Murray rivers.

* Note 10.

1835.
12 Oct.

my intention therefore to employ another exploring Party to complete what has been left undone.

Loss of
R. Cunningham.

Your Lordship will perceive with regret that Mr. Richard Cunningham, the Colonial Botanist, wandered from the Party on the 17th April, and has not since been heard of.* Reports by the Blacks had reached the Western Parts of the Colony, some time prior to Major Mitchell's return, that a white Man of the Party had been murdered by the natives. It is, I fear, but too probable that such has been Mr. Cunningham's fate; but, as it is just possible that he may be detained a Prisoner by some of the Bogan Tribes, I have directed a small Party to proceed in search of him. The result will be made known to Your Lordship by the first opportunity.

I have, &c.,

RICHD. BOURKE.

[Enclosure.]

[*This was a supplement to the "Gazette" dated 19th September, 1835.*]

LORD GLENELG TO SIR RICHARD BOURKE.
(Despatch No. 59, per ship Recovery.)

13 Oct.

Sir,

Downing Street, 13th October, 1835.

Refusal of
claim of
J. Maxwell
for land grant.

I have had under my consideration your Despatch No. 44 of the 2d May last, together with the papers which accompanied it, relating to the claim preferred by Mr. John Maxwell to receive an additional Grant of Land under the Regulations in force in the year 1822, founded upon a letter which that Gentleman obtained from this Office prior to his departure from this Country; and I have, in answer, to acquaint you that I concur with you in opinion that this claim has been set at rest by the Grant, which Mr. Maxwell received in the year 1830, inasmuch as I find that, amongst the arguments then used by Mr. Maxwell in support of his application for Land, he mentioned that he had been induced by Sir Thomas Brisbane's Government "*to relinquish his claim to a Grant of Land.*"

I am, &c.,

GLENELG.

LORD GLENELG TO SIR RICHARD BOURKE.
(Despatch No. 60, per ship Recovery.)

14 Oct.

Sir,

Downing Street, 14th October, 1835.

Despatch
acknowledged.

I have received and have laid before the King your despatch No. 129, of the 28th December, 1834, enclosing the Acts which had been passed by yourself with the advice of the Legislative Council of New South Wales during that year.

My despatch of the 5th Ultimo will have disposed of three of those Acts, and I have now the honor of conveying to you His Majesty's approval of the remainder, a list of which I herewith transmit.

1835.
14 Oct.
Approval of
acts of council.

I have, &c.,

[Enclosure.]

GLENELG.

[*This included the titles of the following acts of council:—
4 Gul. IV, Nos. 13, 15 and 16; 5 Gul. IV, Nos. 1 to 8 and 11 to 20;
and the private acts for the Australian subscription library and
the trustees of the Methodist chapel.*]

SIR RICHARD BOURKE TO LORD GLENELG.

(Despatch No. 102, per ship Spence; acknowledged by lord Glenelg, 18th September, 1836.)

My Lord,

Government House, 14 October, 1835.

I have had frequent occasion to bring under the notice of the Secretary of State the great interest, which the Colonists of New South Wales attach to the introduction of useful Mechanics and Laborers from Europe, and, on calling together the Legislative Council in the month of May last for the usual business of the year, I appointed a Committee to enquire and report the extent to which Immigration has been carried since the appropriation of the Revenues arising from the Sale of Land to that object, and the best means of promoting the introduction of Persons of both sexes of good moral character and industrious habits. The Committee reported on the 18th of last month, and I have now the honor to transmit a copy of the Report.*

Report by
committee of
legislative
council re
immigration.

This very able and useful document has been drawn up by Chief Justice Forbes and claims Your Lordship's attention as containing a brief history of the rise and progress of Emigration to this Colony from the mother country under the encouragement of His Majesty's Government, and the means which, in the opinion of the Committee, should be adopted for the farther introduction of useful subjects from thence. In accordance with the views of the Committee, in the justice and propriety of which I concur for the most part, I am making arrangements for carrying into effect some of the measures they have recommended, and more especially for the employment of one or more Agents to seek out in Great Britain and conduct hither Emigrants of the description most required in the Colony. For this purpose, I have it in contemplation to engage some of the Surgeons Superintendents of Convict Ships, who, by their employment under Government, have had opportunities of obtaining considerable knowledge of the Colony, as well as of the proper management of large numbers of unoccupied Persons embarked on board Merchant

Report drafted
by chief justice.

Proposed
employment of
surgeons of
convict ships
to procure
immigrants.

1835.
14 Oct.

Proposed
employment of
surgeons of
convict ships
to procure
immigrants.

Vessels on long voyages. If to these advantages they unite an acquaintance with the middle and lower classes of Society acquired by residence in any part of the United Kingdom, activity in seeking out and skill in selecting proper subjects, I would consider them more likely to render useful service to the Colony than any other description of Persons, who could be employed in the same duty. Upon engaging with any of these officers, whom I shall think fit to be employed, and find willing to undertake the employment, He will be furnished with Instructions and funds from hence, and desired to report himself to Your Lordship for the confirmation of his appointment (with the permission of the Lords of the Admiralty) and to receive his final orders.

Alternative
appointment
of agent at
Liverpool.

If the foregoing arrangement should not meet with Your Lordship's approval, I would propose the appointment of a permanent agent despatched from the Colony to reside at Liverpool, from whence as a central point to proceed to those parts of the United Kingdom where Emigrants of the required description are to be found, and to superintend their embarkation under proper conductors from convenient Ports. This, however, would in my opinion, be an arrangement much inferior to that which I have first suggested. I attach much importance to the employment of the same Persons to Embark, superintend during the voyage, and finally deliver over in the Colony the Persons whom he has been instructed to procure.

Qualifications
required in
agent.

Whichever way Your Lordship shall decide, I trust I may be permitted strongly to urge the necessity for appointing Agents well acquainted with the Colony and responsible to the Colonial Government for the proper discharge of their duty, and looking to it for remuneration. It was to an Agent of this description that I pointed in my Despatch of the 21 January, 1834, No. 4. The employment of Mr. Pinnock, however great that Gentleman's merits may be, and for which I desire to give ample credit, has certainly not fulfilled my intention, nor satisfied the wishes of the Colonists. Upon the judicious and appropriate selection of the Emigrants, the whole value of the scheme of Emigration now submitted may be said to depend. The selection can hardly be well made, if the Agent is not intimately acquainted with the wants of the Colony which he is to supply; and it is scarcely less necessary that he should be known to and possess the confidence of the Colonists.

Bounty
proposed on
immigrants
introduced
by settlers.

I would propose also to offer to those Settlers, who have the means, and would prefer to engage by their own Agents Mechanics or Agricultural Laborers, a bounty equal or nearly equal to the expence of the passage of such persons, provided they are

1835.
14 Oct.

Bounty
proposed on
immigrants
introduced
by settlers.

of the Ages and descriptions specified in a Governmt. notice to be issued for the purpose, and shall be passed by a Board appointed to examine such Persons upon their arrival. This offer will embrace married couples under thirty years of age and their families, and unmarried females between 15 and 30 years who shall come out under the protection of the married couple as forming part of the Family and destined to remain with it until otherwise provided for; and single men between 18 and 25 in the same numbers as the unmarried Females last ment'd. I consider an arrangement of this sort presents the cheapest and most desirable mode of encouraging the Immigration of useful persons. It is clear that the Settlers will import none but those of whose services they are in want, and thus all apprehension of a glut in any particular line of business is removed. The expence of Agency in selecting, and the maintenance of the Immigrants from their first landing until they obtain Employment, is saved to the Public, whilst the character of those obtained by private Agency is not likely to be inferior to the character of those brought out by the Agents of Government. It is, however, improbable that the majority of Settlers requiring labor can afford to incur the expence of Agency, or have funds to advance for the passage of Tradesmen or Servants, though they would be able to hire them on yearly wages when brought out at the public charge. The arrangement, therefore, can only be regarded as providing one of the means for supplying the present deficiency of labor in New South Wales; but, if in conjunction with it the Agency of the Surgeons Superintendents be employed, a sufficient supply may be anually obtained.

I would add that it is proposed to engage, by means of the London Merchants connected with the Colony, the Ships which the Superintendents are to fill. It may be reasonably expected that the Merchants will exert themselves to procure good vessels upon fair terms for the sake of preserving their credit with the Colonists, who employ them in the Sale of their wool; and, as the Surgeon-Superintendent has no interest in common with the Merchant, it is probable he would object to Embark on board any Ship that was not well found and suited to the purpose.

Method for
chartering
ships.

The foregoing is an outline of the Scheme which, after much consideration on my part, and many conferences with those who have considered it, I have the honor to submit for the approval and allowance of His Majesty's Government.

I have, &c.,

RICHD. BOURKE.

[Enclosure.]

[This report will be found in the "Votes and Proceedings" of the legislative council.]

1835.
15 Oct.

LORD GLENELG TO SIR RICHARD BOURKE.

(Despatch No. 61, per ship Recovery.)

Sir,

Downing Street, 15th October, 1835.

Application by
T. P. Macqueen
for allotments
with water
frontage.

I transmit to you, herewith, a copy of a letter, which I have received from Mr. T. Potter Macqueen, containing an application to be placed in possession of 4 half acre Allotments of Land by the Water-side at Soldiers' Point, in consideration of another allotment, which he states he was permitted by you to hold as a reserve subject to the approval of the Secretary of State, but which he has been required to give up for the use of Government. That reserve of Land, I conclude, was made by you under the authority of Lord Goderich conveyed to you by Mr. Hay's letter of the 23d Jany., 1832.

The claim of Mr. Macqueen to the Land, for which he now applies, is grounded, I perceive, on an Instruction which he states to have been given by Lord Bathurst to Sir Thomas Brisbane in the year 1824 to place his (Mr. Macqueen's) Agent in possession of 10 acres of Land at Sydney Harbour. The records of your Government will, of course, shew that the despatch* to Sir Thomas Brisbane, to which Mr. Macqueen refers, contained no such Instruction; and that Gentleman was distinctly informed at the time, in answer to his application to the Secretary of State, that no definite location could be ordered for him, and that the Governor could only be directed to render him all the facilities in his power towards the attainment of his object of erecting Warehouses by the Waterside.

Under all the circumstances of the case, I do not feel that, in justice to the claims of other private Individuals, and with a due regard to the Public interests, I can authorise you to place Mr. Macqueen in possession of the Land, for which he applies, on any other terms than those, which were sanctioned by Lord Goderich in the communication to you above referred to of the 23d January, 1832.

In communicating this decision to that Gentleman, you will have the goodness to apprise him that his application should have been sent through you.

I am, &c.,

GLENELG.

[Enclosure.]

MR. T. POTTER MACQUEEN TO EARL OF ABERDEEN.

My Lord,

Segenhoe, N. S. Wales, 11th May, 1835.

In the year 1824, the late Earl Bathurst was pleased to give me Instructions to receive, thro' my Agent Mr. P. McIntyre, a Grant of 10 acres of land in Sydney Harbour to enable me to build Warehouses and a Wharf for the service of the Estate, lately assigned to me by H.M. then existing Govt.: A long correspondence

* Note 47.

took place between Mr. McIntyre and Sir T. Brisbane in the first instance, and secondly Genl. Darling, which was more than once submitted to Downing St., I was exceedingly astonished at the assertion of the Colonial Secretary that no land of the kind required was disposable, and it was not until my arrival in the Colony last year that I discovered the origin of the mistake. In my ignorance of locations, I had applied for land in *Sydney Cove*, which forms a very small portion of *Port Jackson*, and certainly in Sydney Cove the entire land was already appropriated.

1835.
15 Oct.

Application by
T. P. Macqueen
for allotments
with water
frontage.

H. E. Genl. Bourke had the kindness, when made aware of the error which has so long prejudiced me, to permit me to select a small portion of about 3 acres, and to hold it reserved until the pleasure of the Secretary of State be made known; but a few days since, I have been informed by the Colonial Secretary that, in consequence of some alterations now in progress, this spot will be required for the service of Govt., and suggesting that I should apply for another Site. On application to the Surveyor General, I am informed that the only Sections not located are four half acre allotments known to Govt. as "Nos. 19, 20, 21 and 22 at the Soldiers' Point, Darling Harbour, near the Patent Slip." These form a *shelf of rock* covered with water at High Tide, and which will, therefore, require much outlay to build upon; but, with the extent of my Estab^t., I do greatly need Warehouses for receiving Imports and shipping Produce, that even the completion of the original boon of Lord Bathurst would be thankfully received in its present diminished form.

When I state to your Lordship that I am now making arrangements to transfer hither the unemployed Paupers from my English Estates, and particularly from the County in which I am most known and formerly represented, Bedfordshire; that I am preparing to erect a Church of solid stone, and a suitable residence for a Minister of the Church of England at my own expense appropriating thirty acres of my land as a Glebe, and making a Stipend of £100 per Ann.; that I have two first rate Medical men, a Physician and a Surgeon on my property, I hope I urge sufficient reason to anticipate the support of the Home Govt., and that the intentions of a former Minister, which were prevented by an error almost amounting to a quibble, may not now be defeated on the very limited grounds of my present application.

I have, &c.,

T. POTTER MACQUEEN.

SIR RICHARD BOURKE TO LORD GLENELG.

(Despatch No. 103, per ship Spence.)

My Lord, Government House, 15 Oct., 1835.

Referring to my Despatch of the 9th September last, No. 91, by which I reported the arrival of the ship Canton with Female Emigrants, and the necessity I was under of placing the Passengers and Crew under Quarantine on account of the appearance of the Small Pox on board during the voyage, I have now the honor to inform your Lordship that on the 8th instant they

Release of
immigrants
per ship
Canton from
quarantine.

1835.
15 Oct.

Dispersal of
immigrants.

were admitted to Pratique and removed to Sydney. The single women have nearly all obtained places, as have some of the Families. The proper Returns will be made to the Colonial Office by an early opportunity. The character and conduct of these Persons is favorably spoken of. I have, &c.,

RICHD. BOURKE.

LORD GLENELG TO SIR RICHARD BOURKE.

(Despatch No. 62, per ship Recovery.)

16 Oct.

Request by
J. Laidley for
remission of
purchase money
on land.

Sir,

Downing Street, 16th October, 1835.

I have received your Despatch No. 14 of the 3d of February last, enclosing a Memorial from Mr. Laidley, Deputy Commissary General at New South Wales, praying that, in consideration of certain duties which he had performed for the service of the Colony during a period of nearly four years and a half, he may be permitted to receive a remission of the Purchase Money of 3,840 acres of Land, being in fact equal to an Allowance of £960.

I had deemed it right to transmit the Memorial of Mr. Laidley for the consideration of the Lords Commissioners of the Treasury, both on account of his holding an Appointment directly under their Lordships, and also because he had, it appears, in the year 1828 submitted a similar claim to the Board of Treasury. I now transmit to you a copy of the reply, which has been received, from which you will perceive that the Lords Commissioners are disposed to sanction an allowance of 10s. a day to Mr. Laidley as a remuneration for such service, to be paid from the Colonial Funds for the period from the 25th June, 1827, to the 31st December, 1831, embracing 1,651 days, which would amount to the sum of £825 10s.

Concurring as I do in the view, which the Lords Commissioners have taken of the fairness of Mr. Laidley's claim, and in the expediency of satisfying that claim by an adequate allowance in Money rather than by an Allotment of Land, I have to request that you will submit to the Legislative Council the propriety of voting a Grant to Mr. Laidley to the amount proposed by the Board of Treasury.

I am, &c.,

GLENELG.

Approval of
allowance in
money for
J. Laidley.

Proposed vote
by legislative
council.

[Enclosure.]

HON. J. STEWART TO UNDER SECRETARY HAY.

Sir,

Treasury Chambers, 13th Octr., 1835.

The Lords Commissioners of the Treasury having had before them your letter of the 30th June last, transmitting copy of a Despatch from the Governor of N. S. Wales, with copy of a Memorial from the Officer in charge of the Commissariat Dept. at that

Station, praying that, in consideration of certain Duties which he had performed for the service of the Colony during a period of nearly four and a half years, he may be permitted to receive a remission of the purchase money of 3,840 acres of land. I am commanded to acquaint you, for the information of Lord Glenelg, that my Lords entertain a favorable opinion of the merits and services of Depy. Comy. General Laidley; and, as it appears from the correspondence now before them, that Mr. Laidley performed the Colonial duties, which were confided to him during the period above mentioned, to the satisfaction of the Authorities by whom he was so employed, and that he did not receive any Allowance for such extra duties, my Lords are of opinion that, consistently with the usual practice on similar occasions, where duties of an especial nature and for Colonial purposes have been required of Officers of the Commissariat, Mr. Laidley has a fair claim to some remuneration for those services. Their Lordships, however, desire to observe that they consider it objectionable that Officers of the Commissariat, whilst they are in actual employment, should be possessors of Land to any considerable extent, whether by Grant or otherwise, with a view to their being engaged in farming; and they would, therefore, suggest for Lord Glenelg's consideration, as a preferable mode of remunerating Mr. Laidley for his Colonial Services, that he should be allowed a pecuniary Grant from the Colonial Fund. According to the proposal recommended by Sir R. Bourke to which you allude, Mr. Laidley would receive, in the shape of a remission of Purchase money of 3,840 acres of Land, an allowance equal to £960. Their Lordships, on the other hand, would suggest to Lord Glenelg the Grant of an allowance from the Colonial Funds at the rate of 10s. a day for the period in question, viz., from the 25th June, 1827, to the 31st Decr., 1831, embracing 1,651 days, which would amount to the sum of £825 10s., a mode of remuneration which, whilst it would obviate the objection which their Lordships cannot but entertain against an acquisition of large Parcels of Land by an Officer in actual employment, would diminish the charge upon the Colonial Funds by the sum of £134 10s., the difference between the sums of £825 10s. and £960.

1835.
16 Oct.

Opinion in favour of claims of J. Laidley.

Proposed money payment to J. Laidley.

I am, &c.,

J. STEWART.

SIR RICHARD BOURKE TO UNDER SECRETARY HAY.

(Despatch per ship Spence.)

Sir, Government House, 16 Octr., 1835.

Having caused enquiry to be made concerning John Toole, recommended for employment under this Government by the Letter of the Deputy Secretary at War enclosed with your's to me of the 12th May last, I regret to have to inform you that this person has already been twice dismissed from such employment for drunkenness: first from that of Stockade Constable, in which he received 2s. 3d. a day and a full ration, and subsequently from that of a conductor in the Sydney Police, the pay of which is 3s. 3d. a day.

Report re J. Toole.

I have, &c.,

RICHD. BOURKE.

1835.
20 Oct.

LORD GLENELG TO SIR RICHARD BOURKE.
(Despatch No. 63, per ship *Recovery*; acknowledged by
Sir Richard Bourke, 9th June, 1836.)

Sir, Downing Street, 20th October, 1835.

I transmit to you herewith Copies of a Letter from the Secretary to the Admiralty, and of its Enclosure, relative to the Wreck of the Ship "*Charles Eaton*" off one of the Islands in Torres Straits, on its passage from Sydney to Canton.

In the representation which has been addressed to Sir J. Barrow upon this subject, it is stated that there is every reason to believe that the whole of the Crew and Passengers of the "*Charles Eaton*" had landed on Booby or on Double Island; but that many of them, if not all, had been murdered or carried into Slavery by the Natives. The grounds of this supposition are not stated, but it will be highly desirable that you should adopt such measures as may appear to you most adviseable for ascertaining the fate of those unfortunate persons, and for rescuing them from their present position if they should still be in the hands of the Natives.

I am, &c.,
GLENELG.

[Enclosure.]

SIR JOHN BARROW TO MR. JAMES STEPHEN.

Sir, Admiralty, 15th October, 1835.

I am commanded by the Lords Commissioners of the Admiralty to transmit to you herewith the copy of a letter from Mr. William Baley respecting the wreck of the "*Charles Eaton*" and to request you will submit the same to Lord Glenelg, and inform me for their Lordships' information if any account of the loss of the Vessel in question has reached the Colonial Office, and if not whether his Lordship would be pleased to order a Colonial Vessel to be sent from Sydney to enquire after the unfortunate persons shipwrecked.

JNO. BARROW.

[Sub-enclosure.]

MR. WILLIAM BAYLEY TO ———.

Sir, Stockton, 5th October, 1835.

When I was lately in London, I did myself the honor of calling upon you at the Office in Downing Street to invite the attention of His Majesty's Government (through you) to one of the most dreadful cases of Shipwreck and murder or Slavery or both that perhaps ever occurred, and one in which I feel more than an ordinary interest from the circumstances of being connected with some of the wretched sufferers. The following are the facts of the case.

In the month of July, 1834, the Brig "*Charles Eaton*" (Moore, Captain) sailed from Hobart Town to Sydney and left the latter place the 29th of the same month for Canton with several passengers on board, including Captain and Mrs. D'Oyley and two of

Report re
wreck of ship
Charles Eaton.

Fate of crew
and passengers
to be
ascertained.

Report re
wreck of ship
Charles Eaton.

their Children, and an Indian nurse. The Ship called the Augustus Caesar sailed in Company* with the Charles Eaton for several days from Sydney, but was obliged to separate in consequence of a Gale in Torris Strait, about the middle of August. On the 22d of that Month, the Charles Eaton was wrecked near Booby Island or Double Island in the Strait, and, from the information given by the Mate of the Augustus Caesar, who with two other Men went ashore, there is every reason to believe the whole of the crew and passengers of the Charles Eaton had landed on that Island, but that many of them if not all had been murdered or carried into Slavery by the Savages; and, as it is not unusual for the inhabitants of those Islands to preserve the females for purposes worse than death itself, *I do implore* the interference of His Majesty's Government to send out a Frigate of War to rescue the poor surviving sufferers (if any should still be living) from the dreadful slavery to which they are now in that case subject. Captain D'Oyly had been upwards of twenty years in the Artillery in India and Mrs. D'Oyly was the near relation of the Williams of Birchin Lane, Bankers, and of R. Williams, Esqre., M.P. for Dorchester and Captain D'Oyly was my Brother in law and also allied to Sir Charles D'Oyly of Calcutta. As nothing can be heard of any of the Crew or Passengers (if alive) without the aid of His Majesty's Government, I shall feel obliged by your informing me if you can be at all instrumental in the object of my application, and, if not, what course you would recommend me to take to procure the aid of Government on this important matter, important to all who possess *any degree of sympathy*, but to me in particular.

1835.
20 Oct.

Report *re*
wreck of ship
Charles Eaton.

Request for
rescue of
survivors.

I have, &c.,
WILLIAM BAYLEY.

LORD GLENELG TO SIR RICHARD BOURKE.
(Despatch No. 64, per ship Henry Tanner.)

Sir, Downing Street, 27th October, 1835. 27 Oct.

I have to acknowledge the receipt of your Dispatch No. 40 of the 24th of March last, enclosing an Application from Dr. Jeanneret to receive a Grant of Land under the old Regulations in pursuance of certain Letters, which he states that he carried out with him from this Department to Lieut. General Darling, but which were mislaid, and without as he says any neglect on his part, were never acted upon.

Despatch
acknowledged.

Dr. Jeanneret appears to labour under a misconception in supposing that there was an intention to except him from the operation of any Established rules, and certainly there is no record in this Department of an instruction to that effect having been transmitted to General Darling.

Having fully considered all the circumstances of the case, I do not perceive any thing to warrant a departure in Dr. Jeanneret's favor from the existing Regulations. I am, &c.,

Refusal of
request from
H. Jeanneret.

GLENELG.

* Note 48.

1835.
27 Oct.

LORD GLENELG TO SIR RICHARD BOURKE.
(A circular despatch per ship Henry Tanner.)

Sir, Colonial Office, 27th October, 1835.

My attention has been recently drawn to a practice, which I find to have extensively prevailed in the administration of the Government of His Majesty's Colonies, of diverting into the Channel of a private Correspondence with some subordinate Member of this Office intelligence and remarks connected with the conduct of His Majesty's Service.

It is my opinion that there are very serious if not conclusive objections to the habit of the Governors addressing themselves to any person whatever on the public business of their Governments, excepting to the Secretary of State. But, without pronouncing any positive Interdict against such Communications which may possibly, in some very peculiar and uncommon Instances, be not inadmissible, I think it right to apprise you that for every official purpose, I must regard you to have passed over, in silence and without notice, any question which is not explained and discussed in Despatches addressed directly by yourself to the Head of this Department. You will of course communicate to the Secretary of State privately and confidentially on every occasion, on which you may think such a course preferable to that of more public discussion. But it is the Secretary of State who must be the depository of your confidence.

In forwarding this Circular Despatch addressed in common to the Governments of all His Majesty's Possessions abroad, I shall, I am aware, transmit it to some to whom the Instruction it conveys is unnecessary. If you should be amongst that number, you will have the goodness to excuse my having troubled you with a superfluous Communication.

I have, &c.,

GLENELG.

LORD GLENELG TO SIR RICHARD BOURKE.
(Despatch No. 65, per ship Henry Tanner.)

28 Oct.

Sir, Downing Street, 28th October, 1835.

I have had under my consideration your Despatches numbered 97 and 123 of the 18th of Sepr. and the 7th of December last, the former reporting the circumstances under which you had been induced, with the concurrence of your Council, to send an Expedition to New Zealand in order to effect the liberation from captivity of twelve British Subjects, the surviving portion of the Crew of a Ship-wrecked Vessel called the Harriet, the latter despatch reporting the events, which had resulted from that Expedition, and the final liberation of the Captives.

Practice of writing despatches to junior officials in colonial office.

Necessity for full reports to secretary of state.

Despatches acknowledged.

I have also considered your Despatch No. 12 of the 1st February last, enclosing Extracts of various communications addressed to you by Mr. Busby on the subject of his general position as British Resident at New Zealand, together with a Petition signed by various British Traders settled there, praying the Government for further protection.

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28 Oct.

Despatches
acknowledged.

It is with much regret that I have perused the details set forth in these despatches; for, to whatever cause may be attributed the present state of affairs in that quarter, it is sufficiently obvious that little if any advance towards Civilization has been made by the Natives amongst whom Mr. Busby has been residing, and that he has failed in establishing any influence over his own Countrymen resorting to New Zealand. The consequence is that the lives and properties of British Subjects, including even the Resident himself, are in a state of the utmost insecurity.

Failure of
J. Busby as
British resident
in New Zealand.

The measures, which you took on the representation of the Master of the "Harriet" for the rescue of the Captives, appear to have been fully justified by the occasion. In this opinion, I am confirmed by the Report of Mr. Busby from which it appears that the whole Tribe, against which the operations of the Expedition were directed, had been engaged in the plunder of the Vessel and in the murder of part of the Crew; and he expresses his conviction that the punishment, which the Natives brought upon themselves, as it cannot fail to prove a most useful lesson to every Tribe on the Coast, is in that view no matter for regret.

Approval of
rescue of
crew of barque
Harriet.

As far as I can judge from the facts brought under my notice, I see no reason to suppose that the attack on the Crew of the Harriet was provoked by any previous act of aggression; or that, in the subsequent operations, there was any want of forbearance and moderation on the part of the British.

The principal question, however, which calls for consideration, is that of the actual position of the British Resident.

It is scarcely necessary to observe that it was on the earnest representation both of your Predecessor and yourself, and, after the most mature deliberation on the part of His Majesty's Government, that it was at length resolved to appoint a Resident at New Zealand. The advantage and importance were felt of establishing some authority on that station, which should afford constant protection at once to the peaceable Trader from the aggressions of the Natives, and also to the Natives from the lawless violence of European depredators.

Objects of
appointment
of resident.

The desire to encourage an amicable intercourse with a people, whose trade was so valuable particularly to the Colony of New

1835.
28 Oct.

South Wales, was further strengthened by the decided preference shewn by the New Zealanders for the British above every other Civilized Nation.

Difficulties, however, were found to exist in investing the Agent with powers adequate to the purpose in contemplation; and the aid of Parliament was resorted to; But the Bill, introduced into the House of Commons on that occasion, failed to pass into a Law, and you very properly attempted to supply the deficiency, as far as possible, by the well framed and judicious Instructions, which you addressed to Mr. Busby, and which fully and clearly developed the views and wishes of His Majesty's Government.

Approval of instructions to J. Busby.

Want of protection for J. Busby.

The recent occurrences at New Zealand, the attempt on Mr. Busby's life, the robbery committed on his property, and further the difficulty which he experienced in obtaining any satisfaction for so glaring an outrage, tend fully to confirm the opinion, which he has expressed, "that he is the least protected of any individual in the Bay of Islands, if not in all New Zealand."

Under all these circumstances, and with the alternative which you have proposed, I should have felt myself compelled, however reluctantly, to direct the withdrawal of the Resident, had I not considered it my duty again to appeal to Parliament for those powers, the denial of which has in a great measure served to render nugatory the appointment of Mr. Busby, and which are called for not only with reference to those Islands which it was originally intended to include within the operation of the proposed Act, but in all parts of the World where British Subjects are brought into contact with uncivilised natives. It is my intention to propose a Bill to that effect as early as possible in the next session of Parliament.

Proposal for parliamentary statute re New Zealand.

Problem of support for resident.

The question, therefore, now presents itself, by what means the authority, with which it is still in contemplation to invest the Agent, may be best supported for the purpose not only of enforcing a due submission to his decisions on the part of British Subjects, but also of enabling him to acquire a proper degree of consideration in the eyes of the Natives.

Previous proposals.

I observe that, in recommending the appointment of a Resident in the year 1831, your Council expressed their conviction that a Military Guard was indispensably necessary. To such an arrangement, there were considered to be, and I think justly, insuperable objections. Your own recommendation is for the constant presence of a Ship of War. The Lords Commissioners of the Admiralty have already issued Instructions to the Naval Officers, commanding in those Seas, to detach a Ship of War to visit New Zealand as frequently as practicable without

inconvenience to the Naval Service; but the cost of maintaining a Vessel solely for that purpose would be so great as wholly to preclude the possibility of entertaining such a proposal. Mr. Busby suggests "the employment of two Constables with such Salaries as will ensure the services of trustworthy men, and two young Chiefs of sufficient influence, to protect them in the discharge of their duty and to communicate generally with their Countrymen." The expense of these persons, added to the allowance, which Mr. Busby now receives, of £3 for each Native to the number of 20 whom he can prevail upon to live with him, he calculates at from £200 to £250 per Annum; and Mr. Busby further suggests the expediency of his being allowed £100 per Annum to be devoted to the purpose of conciliating the Chiefs, and especially for procuring the Sons of the most influential of them to be educated under his direction.

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28 Oct.

Proposed
employment of
constables and
Maoris.

The difficulties, with which Mr. Busby has hitherto had to contend, render it difficult for me, particularly at this distance, to form a just estimate how far such an Establishment, as he proposes, would enable him to maintain the authority, with which it is contemplated to clothe him. On the general view of the case, it seems to me that much good might eventually be effected by inducing the most influential of the Chiefs to entrust their Sons to be educated, either under the eye of the Resident, or perhaps at the seat of your Government, where they might acquire the arts of civilised life, and might serve to a certain degree as a guarantee for the good behaviour of their Relatives.

Advantages of
education of
sons of chiefs.

I would, however, leave it to you to arrange with the Resident these details; and I authorise you to expend in this service the sum of £300 per annum in addition to the salary of that Officer. If, as you anticipate, you should experience any difficulty in obtaining a Vote of that amount from the Legislative Council, you will consider yourself authorised to defray the charge from the Crown Revenues of New South Wales.

Expenditure
authorised.

The general utility of the Resident must, in a great measure, depend on the influence which he may be able to gain over the Native Chiefs. From the statement contained in Mr. Busby's letter to the Colonial Secretary to your Government, dated the 28th November last, it appears that his operations were, up to that period, confined to the single spot where he had fixed himself; and that, after a residence there of more than a year and a half, he had failed to obtain the confidence of the Chiefs, or even to acquire a knowledge of them or of their Country. Whether a failure so unqualified is to be ascribed to the inherent difficulties of Mr. Busby's situation, or to a deficiency on his part in the qualities of conciliation on the one hand and of energy and

Failure of
J. Busby to
gain influence
on chiefs.

1835.
28 Oct.

Proposed
change of
resident.

command on the other, it must be for you to judge. If the latter should be the case, I see no alternative but to remove Mr. Busby to some other Office for which he may be better fitted, and to appoint another officer more calculated to fill the office of Resident at New Zealand.

I shall be anxious to receive further information with regard to the state of affairs in that quarter, and particularly with regard to the effect which the late coercive measures may have produced upon the Natives. It is satisfactory to know that the Chiefs, who assembled to take into consideration the conduct of Rete, were unanimous in adjudging a punishment commensurate with his Crime; and I approve of the recommendation of your Council that Mr. Busby should take possession in the name of The King of the property of that Chief, which was forfeited to His Majesty.

I am, &c.,
GLENELG.

Land to be
accepted by
J. Busby.

LORD GLENELG TO SIR RICHARD BOURKE.

(Despatch No. 67, per ship Strathfieldsaye.)

1 Nov.

Sir,

Downing Street, 1st November, 1835.

Claim *re*
resumption of
land leased to
J. Palmer.

I transmit to you, herewith, a copy of a letter from Messrs. Fairlie and Co., with reference to their claims to compensation for losses arising out of the resumption by the local Government of the land leased* to Mr. Palmer by Governor King, but in which the Claimants subsequently became interested.

My Predecessor, in his Despatch No. 152 of the 22d March, 1833, so fully entered into the merits of this question, that it is unnecessary for me to add anything further regarding it; and, indeed, it would be difficult to do so, as no information has been received from you upon the subject since the date of that despatch; and I am, therefore, unable to understand what circumstance may have prevented an amicable arrangement of the question, and have rendered it necessary to have recourse to those legal proceedings of which the parties complain.

I had deferred any further reference to you upon this subject, in the expectation of receiving some report from you; and I have now to request that you will lose no time in making me acquainted with the course which you may have adopted, in pursuance of Lord Goderich's Instructions above referred to, as I perceive that it is stated, in the letter from the Agents of Messrs. Fairlie and Co., that you refused at all times to entertain the question.

I am, &c.,
GLENELG.

* Note 49.

[Enclosure.]

1835.
1 Nov.

MESSRS. FAIRLIE, CLARK, INNES AND CO. TO LORD GLENELG.

Broad Street Buildings,
London, 30 May, 1835.

My Lord,

We have the honour most respectfully to request your Lordship's consideration of a case, in which some very important interest of ours, and others connected with us, have been, as we conceive, unduly compromised by His Majesties Authorities in New South Wales.

Claim for
compensation
for resumption
of land leased
to J. Palmer.

For needful information to judge of this matter, we are reluctantly compelled to solicit your Lordship's perusal of the accompanying papers, vizt.:

No. 1. Letter* from our Firm to Lord Viset. Goderich dated 15 March, 1833.

No. 2. Some correspondence on the subject of it with Mr. Secretary Hay between 12th and 30th April, 1833.

No. 3. Original Letter from our Agent, Mr. Thomas Steel of Sydney, dated 26th Oct., 1834, with its enclosures, vizt., two Colon'l Gazettes of 28th and 30th October (crrt.) reporting the trial at law and certificate of special Jurors on its result in qualification of their verdict, referred to in that letter.

Upon a first perusal of these Papers, it will, we trust, be established to your Lordship's full conviction that we possess an equitable claim on His Majesty's Government for compensation for the loss of a valuable property, from which we have been unjustly ejected by the application to us of a legal statute which has been and still is left inoperative with respect to a very large portion of the landed possessions throughout the settlement of New South Wales, and which, if enforced against the Holders of those properties, would necessarily render invalid primary grants of land until confirmed under the seal of the Colony, notwithstanding that they have been improved by labour and capital to an almost indefinite extent; and equally to all the occupancies in the Town of Sydney, which by the Governor's proclamation* of 1829 were considered to be established as tenures in Fee simple. We submit to your Lordship's candour and to the justice of the King's Government whether we ought to stand a solitary exception from the general indulgence which is exercised towards the possessors of land in the Colony.

Wishing as little as possible to intrude on your Lordship in this Memorial, and partly also as they are less material to the consideration of the subject of appeal in its present stage, we abstain from supplying here the documentary enclosures, enumerated in our letter of 15 March, 1833. They will be found with its Original in the Official Records of the period, or, otherwise, shall be immediately again furnished by us at your Lordship's intimation.

It will be perceived by our said letter that the valuable consideration given for the property in question amounted on 31 Decr., 1832, with the addition of Colonial Interest (the lowest benefit which should equitably attach to possession during the interval) to the sum of £14,858 15s. (Fourteen thousand, eight Hundred and fifty eight pounds, fifteen shillings).

* Note 50.

1835.
1 Nov.

Claim for
compensation
for resumption
of land leased
to J. Palmer.

Decision of
jury on trial.

Practice *re*
leases in town
of Sydney.

Admission by
judge at trial.

We do not presume to point out a mode in which the required compensation shall be afforded, farther than by soliciting a reference to the observations, which we ventured to offer on this Head, in our address to your Lordship's Predecessor herein adverted to. We leave that consideration to the pleasure of H.M. Govern., only adding that it will be extremely desirable for us under a change of circumstances and the actual cessation of our Mercantile concerns, to obtain in Compensation a Grant of money here. We would, however, urge in the strongest manner our right to the full equivalent of the present worth of the land, of which by the decision of the Supreme Court under Review we have been so unexpectedly and we must repeat unjustly deprived.

We may appeal on this point to the written and subscribed declaration now laid before your Lordship of the entire special Jury in the cause, namely, that, "if the Colonial usage and equity and good conscience of the Defendant's claim had not been wholly taken from their consideration by the ruling of the Judge, they should have unanimously decided on the merits in favor of the Defendant, and that they still consider the honor and good faith of the Crown as pledged by the uniform usage and custom of the Colony to make full compensation for the land thus taken for Public purposes."

We beg leave to assure your Lordship that it will be found, upon investigation, that proclamations of Governors, acts of the Legislature, and decisions of the supreme Court have treated town Leases in Sydney as equal to Grants* in fee, and that no instance in recollection is upon record besides the present, in which the Crown has placed itself in the invidious position of seeking to eject the possessor of land after a length of holding similar to ours, which has always been esteemed in the Colony as a valid and indeed the best title to undisturbed possession.

We rely moreover on the disposition of the Government to do us fair justice in the matter, evinced by the correspondence of Mr. Secretary Hay herewith submitted, and persuade ourselves that His Majesty's former Department for the Colonies did not, when referring our claim to General Bourke, anticipate such manifestly hostile and inequitable proceedings in relation to it as have been suffered to take place.

The Judge himself admits by inference the hardships of the case, where he says in his charge, "It is not for us to assume the office of Legislators; the constitution has placed this power in other hands; and, if there be any things in the present laws which require alteration or admit of amendment, the remedy must be sought in the appointed Legislature of the Colony and not in us, who are only the Ministers of the Law as it is laid down for our guidance"; and again, more pointedly to this individual case, "with the equity of the Defendants' claim to compensation, we cannot deal; that lies between the Defendant and the executive."

Upon the several grounds and considerations now set forth we look with confidence to your Lordship and His Majesty's present Ministers to afford redress, as in their wisdom shall seem meet, to the very serious grievance and pecuniary loss of which we complain.

We have, &c.,

FAIRLIE, CLARK, INNES and Co.

* Note 51.

[Sub-enclosure No. 1.]

1835.
1 Nov.

UNDER SECRETARY HAY TO MESSRS. FAIRLIE, CLARK, INNES AND Co.
Gentl., Downing Street, 12 April, 1833.

I am directed by Mr. Secretary Stanley to acknowledge the receipt of your letter* to Viscount Goderich of the 15 Ult., relating to a claim upon the Government of New South Wales arising out of a piece of land there, which Governor King let on lease to a Mr. John Palmer; and I am directed to acquaint you, in answer, that the subject was a short time back submitted† by General Bourke to the consideration of the Secy. of State, by whom definite instructions have already been sent to that officer for his guidance in the matter.

Instructions re
claim sent to
governor.

I am, &c.,

R. W. HAY.

[Sub-enclosure No. 2.]

UNDER SECRETARY HAY TO MESSRS. FAIRLIE, CLARK, INNES AND Co.

MR. HAY presents his Compliments to Messrs. Fairlie, Clark, Innes and Co., and regrets to acquaint them that he is prevented by illness from affording them the interview fixed for tomorrow; and he is unable to say when he will be at liberty to receive them. At the same time, Mr. Hay begs to observe that, if the object of Messrs. Fairlie and Co. in seeking an interview with him, is to make any further communication respecting the claim upon the New South Wales Government, submitted in their letter of the 15th Ultimo, it will be out of Mr. Hay's power to add anything to the information contained in his letter to them of the 12th inst. The Governor of New South Wales alone is capable of bringing the subject to a satisfactory issue; and, as he has been furnished with full powers for the purpose by the Secretary of State, Mr. Hay would suggest the propriety of Messrs. Fairlie and Co. forwarding to that Officer any explanation which they may wish to submit for consideration, in addition to that already in possession of the Colonial Government.
Downing Street, 24th April, 1833.

Inability to
grant interview.

Decision left
to governor.

[Sub-enclosure No. 3.]

MESSRS. FAIRLIE, CLARK, INNES AND Co. TO UNDER SECRETARY HAY.

London, 25 April, 1833.

MESSRS. FAIRLIE, CLARK, INNES and Co. present their Compliments to Mr. Hay and are much obliged by his letter of yesterday, regretting that his indisposition prevents his seeing them as intended. They had, as Mr. Hay conjectures, solicited the favour of an interview for the purpose of enquiring, as the matter in question is of so much importance to them, whether the instructions alluded to in Mr. Hay's Note of the 12th inst., as having been forwarded by the Secretary of State to General Bourke embraced the consideration of their claim in its full extent as set forth in their letter of the 15th Ult.; and otherwise their object would have been earnestly to request that the substance of that letter and its enclosures might be yet officially transmitted to the Governor of New South Wales, accompanied with some intimation of the acquiescence of Government both in the principle of the claim, and in the mode suggested for its adjustment, without which there is perhaps only too much

Reasons for
request for
interview.

1835.
1 Nov.

Reasons for
request for
interview.

reason to apprehend that a settlement might be again protracted to wait the result of another reference to the authorities in this Country; and it is trusted that the intrinsic merits of the case, confirmed by documentary evidence, are such as will justify the call now respectfully made thro' Mr. Hay for this act of condescension on the part of H.M. Government.

[Sub-enclosure No. 4.]

UNDER SECRETARY HAY TO MESSRS. FAIRLIE, CLARK, INNES AND CO.

Gentlemen,

Downing Street, 30 April, 1833.

Reference
of letter to
governor.

In reply to your note of the 25th inst., I beg to acquaint you that Mr. Secretary Stanley has directed a copy of your letter of the 15th Ult., together with its enclosures, to be referred to New South Wales for the consideration of the Governor and Council; but that Mr. Stanley must decline to accompany it by the communication which you have requested, the instructions already issued to General Bourke being in his opinion sufficient to meet the merits of the case.

I am, &c.,

R. W. HAY.

[Sub-enclosure No. 5.]

MR. T. STEELE TO MESSRS. FAIRLIE, CLARK, INNES AND CO.

Sydney, New South Wales,

Dear Sirs,

26th October, 1834.

Refusal of
R. Bourke to
consider claim.

I had this pleasure on the 13th inst. per "Caroline," and have now to address you on the subject of the claim, submitted by you in your letter of the 15th March, 1833, to Lord Goderich, then Secretary for the Colonies, to a piece of ground* in the Town of Sydney on which a Windmill is erected. The Governor General Bourke, contrary to what might have reasonably been expected from the terms of the reply of his Lordship's Secretary, Mr. Hay, intimating the reference to his Excellency for a decision according to its merits, declined to entertain it or even to bring it before the Council, as directed by Mr. Stanley as per Mr. Under Secy. Hay's letter of the 30th April, 1833. Seeing so equitable a claim treated in this manner by the Governor, notwithstanding the very favorable view taken of it by His Majesty's Government, I declined with the advice of Mr. Glentworth, my legal adviser, to give up possession of the land and Buildings; and His Excellency thought proper to bring an action against me in our Supreme Court for an act of intrusion, and had no alternative but defend myself as your representative, and regret much to inform you the jury, by the direction of the Judges, brought in a verdict for the Crown on a *point of Law*, although in all equity, and according to the usages of the Colony since it was founded, considered it your property, being the only instance on record, wherein the Government have exercised the full prerogative of the King with respect to Lands in this Colony. I enclose you the Newspapers of the day, wherein you will find a full report† of the case, with the Editor's remark on the decision of the Judges for it cannot be called that of the Jury.

Action brought
for act of
intrusion.

Proposed
further
claim for
compensation.

I am about memorializing the Governor for compensation, but fear it will be of little avail, as in all likelihood he will again refer it to the Home Authorities, and would therefore recommend you immediately laying General Bourke's very extraordinary and unprecedented proceedings in the matter before his Majesty's

* Note 49.

† Note 53.

Secretary for the Colonies, and request you may still be allowed compensation equal to what the ground which formed the Lumber Yard (now disposed of) realized, which was given in exchange for that on which the Windmill stands; and I feel confident, from the very gross injustice done you by His Excellency in depriving you of this piece of ground, it will not be withheld from you.

1835.
1 Nov.

Proposed
further
claim for
compensation.

I enclose Copy of a Certificate signed by the Jury as to the equity in their opinion of your claim to the piece of ground in question, which I consider of great importance in furthering the object of the memorial to the Governor for compensation.

I remain, &c.,
T. STEELE.

[Sub-enclosure No. 6.]

THE KING AND THOMAS STEELE, ESQR.

WE, the undersigned Special Jurors who tried the above case, at the request of the Defendant, do hereby certify that our verdict in favor of the Crown was given entirely on the ruling of His Honor the Chief Justice "That nothing short of a Grant under the Seal of the Colony or an adverse possession against the Crown of at least sixty years could bar the right of the Crown." We further certify that, if the usage of the Colony and the equity and good conscience of the Defendants' claim had not been wholly taken from our consideration by the ruling of the learned Judge as above mentioned, we should have unanimately decided on the merits in favor of the Defendant, and that we still consider the honor and good faith of the Crown pledged by the uniform usage and custom of the Colony to make full compensation for the land thus taken for public purposes.

Certificate
given by jury
re verdict in
lawsuit.

JAMES BARKER.	JOHN LORD.
A. B. SPARK.	JOHN GILCHRIST.
P. DE MESTRE.	J. H. GOSLING.
ROBERT DUKE.	EDWARD BIDDULPH, R.N.
E. B. MOWLE.	WM. DAWES.
JOHN LEARMONTH.	

From the short time I have resided in the Colony, I am not enabled to speak to the usages and customs as particularly referred to in the foregoing; but do consider the good faith of the Government pledged to extend to the Defendant the full benefit of the same.

C. H. EBDEN.

LORD GLENELG TO SIR RICHARD BOURKE.

(Despatch No. 68, per ship Strathfieldsaye.)

Sir, Downing Street, 2d November, 1835.

2 Nov.

With reference to your Despatch No. 43 of the 3d May, 1834, I transmit to you, for your information, a copy of a letter which has been received by my Under Secretary of State from Mr. John Abbott, dated Van Dieman's Land, 21st April, 1835, together with a copy of the reply which I have directed to be returned to that communication, from which you will perceive that, although under the peculiar circumstances of the case I have been induced to sanction the payment of Mr. Abbott's half

Transmission
of papers re
J. Abbott.

1835.
2 Nov.

Employment
to depend on
health.

Salary during the period of his leave of absence, it has at the same time been intimated to him that his subsequent continuance in his office must depend upon the state of his health being then such as to admit of his efficiently performing the duties of it,

I am, &c.,
GLENELG.

[Enclosure No. 1.]

MR. JOHN ABBOTT TO UNDER SECRETARY HAY.

Sir,

Launceston, 20th April, 1835.

Reasons
for letter.

I do myself the honor of addressing you, in consequence of having obtained from his Excellency Governor Bourke leave of absence for the period of two years from the Colony of New South Wales for the purpose of returning to Europe, on the understanding that it should be the Secretary of State's pleasure as to whether my appointment was to continue or not. The circumstance of my health having greatly improved since my arrival in this Colony from Sidney, added to my mother's affairs being in a very embarrassing state in consequence of the death of my Father, the late Civil Commandant of Launceston, and my inability to defray the expenses of a voyage to Europe and back, have determined me to remain in this Colony; and I am compelled, being without money, to draw upon Mr. Barnard the Colonial Agent for the amount of my half Salary for the last 12 months due the first of April last, being the sum of £150; and respectfully request that you will be pleased to obtain the Secretary of State's sanction that my bills upon him may be honored to that amount.

Bills drawn
by J. Abbott
for salary.

Conditions
of leave of
absence.

In applying for leave of absence, I did so on the faith of the government and general order as promulgated by His Excellency Governor Bourke, an extract of which I have the honor to enclose, which states that I am entitled to half pay for the period of my leave of absence; and, with that view, I have the honor to inclose a copy of the certificate from the Colonial Treasurer of the period up to which I was paid, furnished me for that purpose. The inclosed copies of my application for leave of absence to the Surveyor General, with attested copies of certificates from the heads of the Medical Department of both Colonies, will prove how much I have suffered; and I trust that the Colonial Agent will also be allowed to honor my bills for my half salary for the remaining 12 months, when it becomes due, amounting in all to the sum of £300, and which was paid to the gentlemen of our department who were reduced. I am aware of the numerous claims upon Government for appointments, and I shall therefore endeavour to seek some respectable employment in this Colony. Should I not succeed, I trust an opportunity may occur at some future period of taking my services into consideration. I have served under Government twelve years and beg to inclose a copy of a certificate of my abilities from Major Mitchell. I would also beg leave respectfully to refer to Mr. T. C. Harrison of the Treasury, and to his Father Mr. William Harrison, whose correspondence with the Colonial Secretary, Mr. McLeay, will enable them to certify that my conduct has always met with the approval of the Government of New South Wales.

Request for
half salary
for twelve
months.

I have, &c.

JOHN ABBOTT,

late Assistant Surveyor of New South Wales.

[Sub-enclosure No. 1.]

1835.
2 Nov.

MR. J. ABBOTT TO THE SURVEYOR-GENERAL.

Sir,

Sidney, 17th Decr., 1833.

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 myself 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 such benefit as I am led to expect therefrom. It is now upwards of six years since I was appointed an assistant surveyor of crown lands, by the letter of the Secretary of State for the Colonies dated ———, 1827; and, since my arrival, I have constantly been employed in the Field in various parts of the Colony. The first illness, which I recollect to have experienced, occurred during the period of my being employed with another surveyor on a coast survey in a small decked boat, when for about 4 months we endured severe privations, having no opportunity of procuring fresh provisions, sleeping constantly on the ground in the open air without the shelter of a tent, and being obliged to walk all day for a week at a time and carrying our rations on our backs, during which periods we did not take off, much less change any of our clothes; Since then I have had 4 very severe attacks, attended with fever, confining me to my bed for 3 or 4 months at a time, and always originating in consequence of my having caught cold or overfatigued myself (having been very weak since my first attack) whilst employed on surveying duties; and I am at this moment just recovering from the effects of 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. It is now my misfortune to possess a ruined constitution, whereby I shall derive little benefit from the labour and experience of 6 years in consequence of the possibility that I shall never be strong enough to endure the fatigues, which an active surveyor must necessarily undergo. I am therefore desirous of proceeding to England, 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 2 years. My reason in asking this indulgence is that I feel my constitution is so completely broken down, that I shall require a long relaxation from labour, and that 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 Europe.

Application by J. Abbott for leave of absence.

Illness caused by privations on survey duty.

Desire to return to England.

I have therefore the honor to request that you will submit this application to his Excellency the Governor. I have, &c.,

JOHN ABBOTT.

* Note 54.

[Sub-enclosure No. 2.]

1835.
2 Nov.Affidavit by
J. Abbott.

AFFIDAVIT BY MR. J. ABBOTT.

PERSONALLY appeared before me, John Abbott, assistant Surveyor at Sidney, New South Wales, who deposeth that the accompanying copies of certificates marked with my signature are true and correct copies of originals in his possession, signed by the respective Officers whose names they bear, which originals so stated were produced by him, and compared by me with the copies aforesaid, marked with my signature, and that I found the same to be correct.

JOHN ABBOTT.

Sworn before me at Launceston, eleventh March, 1835.—
W. LYTTLETON, J.P.

CERTIFICATES.

Certificate
re salary.

I, CAMPBELL DRUMMOND RIDDELL, Colonial Treasurer of New South Wales, do hereby certify that John Abbott, Assistant Surveyor in the Surveyor General's department, has been paid his salary and allowances at the rate of three hundred pounds per annum up to the 31st day of March, 1834, inclusive and to no later date.

Given under my hand at Sydney, this fifth day of July, 1834.

C. D. RIDDELL, C.T.

The above is a true copy of the document produced before me, purported to be the original.

W. LYTTLETON, Police Magistrate for V. D. Land.

Medical
certificates.

I certify that Mr. Assistant Surveyor Abbott has, during the last two or three years, been a great sufferer from rheumatism, having experienced some severe and dangerous attacks, from the effects of which he still suffers; and that in my opinion it would be exceedingly imprudent for him to continue in the service of the Surveyor General's department from his liability to future attacks of the kind, in consequence of the privations and exposure to the weather to which a surveyor in this Colony is subject.

Sidney, 1st June, 1834.

J. BOWMAN.

The above is a true copy of the document produced before me purporting to be the original.

W. LYTTLETON, Police Magistrate for V. D. Land.

Hobart Town, 25th February, 1835.

I hereby certify that I attended Mr. John Abbott during a severe illness on his arrival from Sidney in the Ship Duckenfield, and that I advised him not to proceed to Europe in that ship; and that it is my recommendation, in consequence of his improving but still debilitated state of health and his liability to rheumatic attacks, to continue during the remaining period of his leave of absence in this Colony.

J. SCOTT, Col. Surgeon.

The above is a true copy of the document produced before me, purported to be the original.

W. LYTTLETON, Police Magistrate for V. D. Land.

Certificate *re*
services as
surveyor.

I hereby certify that Mr. Assistant Surveyor Abbott is a good Draftsman and accurate Surveyor, and that, in consequence of severe and continued indisposition he has been latterly employed in

the less laborious duties of the Road Department, having superintended the formation of the New Pass* marked by me for the purpose of attaining the summit of the Blue Mountains, which has been completed to my satisfaction. T. L. MITCHELL, Sur. Gl.

1835.
2 Nov.

Certificate re
services as
surveyor.

Sydney, 1st June, 1834.

The above is a true copy of the document produced before me, purported to be the original.

W. LYTTLETON, Police Magistrate for V. D. Land.

[Sub-enclosure No. 3.]

EXTRACT FROM THE GOVERNMENT GAZETTE, 31ST MARCH, 1833.

Colonial Secretary's Office,
Sydney, 7th March, 1833.

Civil Officers,

In obedience to the commands of his Right Honorable the Secretary of State, as signified in a circular despatch of the 31st of August, 1831, his Excellency the Governor has directed the publication of the following regulations respecting the salaries of civil officers obtaining leave to quit the Colony, upon their private affairs, viz.:

Regulation re
salaries of civil
officers on leave
of absence.

1. Civil or Judicial Officers, or servants of the Government of New South Wales, who may receive leave to return to Europe on the plea of ill health or of urgent private affairs, will be allowed to draw one moiety of their respective salaries and no more during the actual period of their absence from the Colony; The other moiety of such salaries will be retained in the public treasury, and carried to account of the Public Revenue, under the head of "Savings accrued from salaries of officers absent on leave," etc.

[Enclosure No. 2.]

UNDER SECRETARY HAY TO MR. J. ABBOTT.

Sir, Downing Street, 5 November, 1835.

I am directed by Lord Glenelg to acquaint you that his Lordship has had under his consideration your Letter addressed to Mr. Hay of the 20th April last, which has been forwarded to this Department in duplicate by the Agent General for the Colony of New South Wales.

Letter
acknowledged.

You are no doubt aware that there has existed on the part of the Secretary of State an anxious wish to reduce within the narrowest possible limits the expenditure of the Department to which you belong; and that, with that end in view, there has been a great indisposition to grant leave of absence to the various Officers attached to it without the most satisfactory reason being shewn for so doing.

In consideration however of the state of your health, which seems to have materially suffered in the Public Service, his Lordship has been induced to authorise the Agent to pay the Bills, which you may draw for your half salary during your leave of absence; but on the understanding that at the expiration of your present leave your continuance in the Survey Dept. must depend upon the state of your health being such as to admit of your efficiently performing the duties of it.

Payment of
half salary
authorised.

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

* Note 55.

1835.
2 Nov.

SIR RICHARD BOURKE TO LORD GLENELG.

(Despatch No. 107, per ship Florentia; acknowledged by
lord Glenelg, 20th April, 1836.)

My Lord, Government House, 2 November, 1835.

By the Letter addressed to me by Chief Justice Forbes, which I have the honor to transmit, Your Lordship will perceive that circumstances have prevented his taking advantage, for the present, of the leave of absence lately granted to him for the purpose of visiting England; but that he is nevertheless desirous of being considered at liberty to avail himself of it in future, if his health continue delicate, a request which I trust may be favorably entertained by Your Lordship.

I have, &c.,

RICHD. BOURKE.

[Enclosure.]

CHIEF JUSTICE FORBES TO SIR RICHARD BOURKE.

Sir, Sydney, New South Wales, 26 October, 1835.

In consequence of circumstances with which Your Excellency is already acquainted, and to which it will not therefore be necessary more particularly to allude, I have determined not to avail myself for the present of the permission granted me by the Right Honorable the Secretary of State to proceed to England. I have however to request that it may be considered still open to me to avail myself of leave of absence at a future time, in the event of my health continuing delicate, and, that if your Excellency should deem it necessary, you would apprise His Majesty's Government to such effect.

I have, &c.,

FRANCIS FORBES, Ch. Justice of New South Wales.

LORD GLENELG TO SIR RICHARD BOURKE.

(Despatch No. 69, per ship Strathfieldsaye.)

3 Nov.

Sir, Downing Street, 3d November, 1835.

I have received your Dispatch No. 32 of the 19th of February last, explaining the grounds on which you had been induced to augment the Customs Establishment at New South Wales by the appointment of 1 Landing Waiter at £200 per ann.; 1 Junior Clerk and 1 Asst. Locker at £150 per ann. each; and, having referred the subject for the decision of the Lords Commissioners of the Treasury, I now transmit to you a copy of a Letter from the Secretary to that Board intimating the approval of the Lords Commissioners of the appointments in question.

I am, &c.,

GLENELG.

Inability of
F. Forbes to
take leave of
absence.

Request for
continuance
of permission.

Approval of
appointments
to customs
department.

[Enclosure.]

1835.
3 Nov.

MR. F. BARING TO UNDER SECRETARY HAY.

Sir, Treasury Chambers, 2d Novr., 1835.

The Lords Commrs. of the Treasury having had under their consideration your letter of the 8th August last, and the Despatch therein enclosed from the Governor of N. S. Wales, explaining the grounds on which he has been induced to make an addition to the Customs Estabt. in that Colony, I am commanded to acquaint you, with reference to those Documents, that my Lords having had under consideration a Report of the Board of Customs upon the Estabt. of the Dept. in that Colony, they have been pleased to approve of the employment of the additional Landing Waiter at a Salary of £200 per Anm., the Assistant Locker at a Salary of £150 per Anm., and of a Junior Clerk to the Collector at a Salary of £120 per Anm.; and their Lordships will convey the requisite directions to the Commrs. of Customs in regard to the appointment of proper persons permanently to fill these Offices. I am at the same time to request that you will communicate to Lord Glenelg the above approval of the Custom Estabt. at N. S. Wales.

Approval of appointments to customs department.

I am, &c.,
F. BARING.

LORD GLENELG TO SIR RICHARD BOURKE.
(Despatch No. 70, per ship Strathfieldsaye.)

Sir, Downing Street, 5th November, 1835.

5 Nov.

With reference to my Dispatch No. 63 of the 20th ultimo, I now transmit to you a copy of a Letter from the Secretary to the Admiralty, containing further particulars relative to the Wreck of the "Charles Eaton."

Papers re wreck of ship Charles Eaton.

I am, &c.,
GLENELG.

[Enclosure.]

SIR J. BARROW TO MR. JAMES STEPHEN.

Sir, Admiralty, 4th Novr., 1835.

With reference to my letter of the 15th Ultimo respecting the Wreck of the "Charles Eaton," I am commanded by my Lords Commrs. of the Admiralty to transmit to you the copy of a further letter from Mr. Wm. Bayley on the subject, and to request you will submit the same to Lord Glenelg.

I am, &c.,
J. BARROW.

[Sub-enclosure.]

MR. W. BAYLEY TO SIR J. BARROW.

Sir, Stockton, 25th Octr., 1835.

I am sorry to trouble you again so soon after my last letter; but, as you kindly ask for every information in my power to furnish respecting the Wreck of the "Charles Eaton" and her unfortunate Crew and Passengers, I beg to say that, since I last had the honor to address you, I have had accounts from India confirmatory of the Wreck of the Ship, and of my suspicions that the Crew and Passengers had landed on a savage Island in or near Torres' Straits, and that their fate was supposed to be, the murder of some

Report re wreck of ship Charles Eaton.

1835.
5 Nov.

Report *re* wreck
of ship *Charles*
Eaton.

and enslavery of the rest and especially of the females, whom it is usual for those dreadful creatures to preserve for their own purpose.

I take the liberty to subjoin a list of the Passengers on board the "Chas. Eaton," when she left Sydney, of none of whom anything has transpired, since that ship parted company with the Augustus Cesar between Sydney and the Torres' Straits in August, 1834, except what I have already communicated to you from the Mate of the latter Vessel, as reported to me by Messrs. Gledstone's and Hairsede, the Owner and Broker of the Chas. Eaton. I am sure you will pardon me for again troubling you on this distressing affair, and requesting the favor of being informed as soon as possible of the orders given by the Admiralty for exploring those Savage Islands and redeeming our fellow Creatures from Slavery. In such a case, not a moment should be lost, when we consider the torture they are enduring.

I have, &c.,

WM. BAYLEY.

LIST of the Passengers on the "Chas. Eaton," extracted from Sydney Paper, dated 18th July, 1834.

List of
passengers *per*
ship *Charles*
Eaton.

"FROM London via Hobart Town on Wednesday having left the former place the 9th Feby., and the latter the 9th July, 1834, the Barque 'Charles Eaton' 313 Tons, Captn. Moore, with Sundries. Passengers (from Hobart Town) Captn. and Mrs. D'Oyley and two boys; Geo. Armstrong, Esqr., Barrister; Mr. W. Satting; Mrs. Satting; Richard Parkins; William Jones; Frances Jones; John Douglas and Mary Douglas."

So that there were 4 females besides an Indian Nurse with Captn. and Mrs. D'Oyley; and the Surgeon's name on board the "Charles Eaton" was "Grant."

The Ship left Sydney for Sincapore on the 29th July, 1834, as appears in the paper called "Sydney Monitor" of the 26th July, 1834.

LORD GLENELG TO SIR RICHARD BOURKE.
(Despatch No. 71, per ship Strathfieldsaye.)

11 Nov.

Sir, Downing Street, 11th November, 1835.

Despatch
acknowledged.

I have received your Despatch No. 41 of the 27th of April last, on the subject of the Establishment, formerly called the "Governor's Body Guard," which appellation you have changed for that of "Mounted Orderlies."

Regret at
maintenance
of mounted
orderlies for
governor.

After the repeated Instructions, which my Predecessors had issued for the discontinuance of that Establishment, I cannot but express my regret to find that it is still continued, under whatever designation it may exist. Its character is sufficiently marked by its being under the command of your Aid-de-Camp. If, therefore, it is necessary for the Public Service that the Men, who now constitute the Corps of Mounted Orderlies, should still be employed, they must be placed in every respect on the same footing as the Mounted Police.

I am, &c.,

GLENELG.

LORD GLENELG TO SIR RICHARD BOURKE.
(Despatch No. 73, per ship Strathfieldsaye.)

1835.
13 Nov.

Sir, Downing Street, 13th November, 1835.

I have received your Dispatch No. 33 of the 20th of February last, enclosing a Memorial from Mr. Burman Langa praying that he may receive Land under the late Regulations. Application by B. Langa for land.

Mr. Langa having as you anticipated made a direct application to this Department on his arrival in this Country, I transmit for your information a copy of the reply which I have directed to be returned to his Memorial, by which you will perceive that I have felt it necessary to decline complying with his application.

I am, &c.,

GLENELG.

[Enclosure.]

UNDER SECRETARY HAY TO MR. B. LANGA.

Sir, Downing Street, 13th November, 1835.

Lord Glenelg has had under his consideration your Memorial dated the 14th of February last, which has been forwarded to this Department by the Governor of New South Wales, and in which you pray that, in consideration of the circumstances therein set forth, you may be allowed to select a grant of four sections of Land, together with either a Town Allotment in Sydney or a Villa allotment in the Neighbourhood of the same extent as those granted to other Civil Officers on Woolloomoolloo Hill. Memorial acknowledged.

You state that, on your going out to the Colony, you received such assurances as left you no room to doubt, that you would have Land; that on your arrival in the Colony you discovered that the practice of granting Lands to Civil Officers, without the sanction of H.M. Government, had been discontinued; that other officers, who arrived in the Colony nearly at the same time as yourself, on making application to the Government at Home received Grants; but that your own Application was refused on account of its not having reached the Secretary of State until after the system of granting Land had been abolished.

You are quite correct in stating that the two Civil Officers whose cases you cite did receive grants; but they sent home their respective applications before the change in the Land Regulations had taken place. Yours on the contrary was not received until after that period, and the Secretary of State felt compelled to decline complying with that as well as with various others of a like nature, which were sent home by different officers of the Government about the same time or subsequently to it. Under these circumstances, Lord Glenelg regrets that he cannot sanction a compliance with the prayer of your Memorial. Refusal to grant land.

I am, &c.,

R. W. HAY.

1835.
14 Nov.

LORD GLENELG TO SIR RICHARD BOURKE.
(Despatch No. 74, per ship Strathfieldsaye.)

Sir, Downing Street, 14th November, 1835.

I have had under my consideration your Despatch No. 49 of the 2d June last, enclosing a Memorial from Mr. R. G. Moffatt, praying for certain Arrears of Salary, which he claims for having performed the duties of Police Magistrate at Port Stephens, during an interval of 14 months, which occurred between the discontinuance of a Salary of £100 per Annum paid to him by the Australian Agricultural Company, and the commencement of the Salary from the funds of the Colony, which was granted to him under the sanction of His Majesty's Government.

As it appears that Mr. Moffatt's services, during the period for which he claims this remuneration, were fully taken into account when you fixed the rate of his Salary, and that he was fairly remunerated for his Services, I cannot admit the justness of his claim to arrears of Pay.

The circumstance of Mr. Moffatt's removal from his Office of Police Magistrate is not actually included in the prayer of his Memorial; but it forms so prominent a point in his statement that I think it right to inform you that, considering the part which, by his own admission, he bore in the disturbance at the house of Mr. Hall, I am clearly of opinion that you would not have been justified in continuing him in his Office.

I am, &c.,
GLENELG.

LORD GLENELG TO SIR RICHARD BOURKE.
(Despatch No. 75, per ship Strathfieldsaye.)

Sir, Downing Street, 15th November, 1835.

I have had under my consideration your Despatch No. 50 of the 3d June last, enclosing a Memorial from the Widow of Mr. C. T. Smeathman, late Coroner of Sydney, praying that she may receive a Pension or a Grant of Land.

After the high testimony, which has been borne to the character of Mr. Smeathman, both as a Private individual and as a Public servant, I extremely regret that I do not feel myself authorised in recommending a Pension to his Widow; and, with regard to her application for a Grant of Land, I am much averse to the practice of making Grants of Land, in cases where payments in money are refused. It is an indirect mode of arriving at a similar result, to which, on general principles, I strongly object.

I am, &c.,
GLENELG.

Request by
R. G. Moffatt
for salary as
police
magistrate.

Refusal
of request.

Approval of
dismissal of
R. G. Moffatt.

15 Nov.

Despatch
acknowledged.

Refusal of
pension or
land grant for
widow of C. T.
Smeathman.

LORD GLENELG TO SIR RICHARD BOURKE.
(Despatch No. 76, per ship Strathfieldsaye.)

1835.
16 Nov.

Sir, Downing Street, 16th November, 1835.

I transmit to you herewith a Memorial, which has been received at this Department from the Widow of the late Assistant Surgeon Arndell, praying for a pension on account of the Services of her Husband; and I can only express my regret that it is not in my power to comply with Mrs. Arndell's application.

Transmission of memorial.

Refusal of pension for E. Arndell.

I am, &c.,
GLENELG.

[Enclosure.]

THE HUMBLE MEMORIAL OF ELIZABETH ARNDELL.

The Right Honorable The Secretary of State, Colonial Department,
Sydney, New South Wales,

Memorial of E. Arndell soliciting pension.

Sheweth, 18th January, 1830.

That she is the Widow of the late Assistant Surgeon, Thomas Arndell, who was appointed to this Colony by commission bearing date 25th October, 1786, and which he held until his decease on the 2nd May, 1821, a period of 35 years, having been permitted to retire, on a pension in 1808, in consequence of the infirmities of age.

That your Memorialist did, immediately after the death of her Husband, apply for a pension, to which she has not been favored with any reply, and begs therefore most respectfully to repeat her application.

That your Memorialist believes a pension of £100 per annum has been granted to the Widow of the late Mr. Mileham, whose appointment was similar to that of Memorialist's late Husband.

That your Memorialist has never received any compensation from the Government in lieu of a Pension; and being now sixty years of age, and very infirm, she humbly and earnestly solicits that a Pension commencing from the date of her husband's decease may be granted.

And Memorialist as in duty bound will ever pray.

ELIZABETH ARNDELL.

CERTIFICATES.

I HEREBY certify that, when I took charge of the Medical Department in this Colony in 1819, Mr. Arndell had retired from the service some years previously in consequence of ill health, and received a Pension for his services until his death which took place in May, 1821.

Certificates re T. Arndell.

J. BOWMAN, Inspector of Hospitals in New South Wales,
Sydney, 25th January, 1830.

I do hereby certify that the late Mr. Thomas Arndell, Assistant Surgeon, came out at the time his late Excellency Governor Phillip did to Port Jackson, in New South Wales, and that he continued serving in that situation until 1808, when he retired on a pension until his death in 1821. I beg leave to recommend his Widow to the consideration of the Right Honorable the Secretary of State.

JNO. PALMER, Asst. Comy. Genl.

1835.
16 Nov.

Certificates *re*
T. Arndell.

THESE are to Certify that, on my arrival in New South Wales, March, 1794, the late Assistant Surgeon Mr. Thomas Arndell was stationed at Parramatta, and afterwards at Windsor, where he resided some time. I married him to his present Widow at that Settlement in the year 1807. The Church Register of Windsor is supposed to have been lost during my absence from the Colony, as there was no Clergyman of the Established Church there at that time.

I further Certify that I buried Mr. Arndell at Windsor in May, 1821.

SAMUEL MARSDEN, Senior Chaplain.

Pension
recommended
by R. Campbell.

I BEG leave to recommend the Widow of the deceased Assis^tt. Surgeon Arndell to the favorable consideration of The Right Honble. The Secretary of State for the Colonies.

ROB. CAMPBELL.

[Appendix No. 1.]

REVD. L. E. THRELKELD TO COLONIAL SECRETARY MACLEAY.

Sir,

Lake Macquarie, 18th Feby., 1830.

Submission
of memorial.

Mrs. Arndell, widow of the late Doctor Arndell, will be thankful if His Excellency the Governor will be pleased to forward the enclosed memorial to the Secretary of State for the Colonies, and for His Excellency's recommendation on her behalf. Should anything more be necessary as to form or other recommendations, you will greatly oblige by an intimation to that effect.

I am, &c.,

L. E. THRELKELD.

[Appendix No. 2.]

COLONIAL SECRETARY MACLEAY TO REVD. L. E. THRELKELD.

Colonial Secretary's Office,

8th March, 1830.

Reverend Sir,

I have had the honor to lay before the Governor your letter of the 18th Ultimo, enclosing a Memorial from Mrs. Arndell, Widow of the late Dr. Arndell, to be transmitted to the Secretary of State for the Colonies; and, in reply, I am directed by His Excellency to acquaint you that the same will be forwarded as requested.

I have, &c.,

ALEX. MCLEAY.

[Appendix No. 3.]

COLONIAL SECRETARY MACLEAY TO REVD. L. E. THRELKELD.

Reverend Sir,

Colonial Secretary's Office, 23d March, 1830.

Refusal to
forward
memorial.

I have received the directions of His Excellency the Governor to acquaint you, with reference to my letter of the 8th Instant, that His Excellency did not advert at the moment to a communication which he has lately received from the Secretary of State; and that He must decline, in consequence, forwarding Mrs. Arndell's Petition, which you submitted for that purpose, as Pensions will not in future be granted to the Widows of Persons, who have been employed under Government.

I have, &c.,

ALEX. MCLEAY.

[Appendix No. 4.]

1835.
16 Nov.

REVD. L. E. THRELKELD TO COLONIAL SECRETARY MACLEAY.

Sir, 10th April, 1830.

You will, I hope, excuse my merely stating for the consideration of His Excellency the Governor, in reply to the communication of the 23d March relative to Mrs. Arndell's Petition, that perhaps the Honorable Secretary of State does not wish to make the effects of his communication to His Excellency retrospective, as this Petition was in substance delivered to the Colonial Secretary Major Goulburn long prior to the decease of the late Doctor Mileham for whose widow a pension has since been allowed. The Inspector of Hospitals, J. Bowman Esquire, lately informed me that he was almost certain a pension had been granted to Mrs. Arndell from his perusal of the Estimates of the House of Commons. Such being this peculiar case, I entreat that His Excellency will not consider it impertinent in thus bringing the matter again to his further consideration.

Request for further consideration.

I am, &c.,

L. E. THRELKELD.

[Appendix No. 5.]

COLONIAL SECRETARY MACLEAY TO REVD. L. E. THRELKELD.

Reverend Sir, Colonial Secretary's Office, 1st May, 1830.

Having submitted to the Governor your letter of the 10th Ultimo, bringing the Petition of Mrs. Arndell for a Pension again under notice, I am directed to inform you, with reference to the communication made to you from this office on the 23rd of March, that His Excellency cannot interfere in the matter alluded to.

Refusal to submit memorial.

I have, &c.,

ALEX. MCLEAY.

[Appendix No. 6.]

REVD. L. E. THRELKELD TO COLONIAL SECRETARY MACLEAY.

Sir, Ebenezer, Lake Macquarie, 31st March, 1834.

I am requested by Mrs. Arndell to make application for the Memorial and its accompanying documents from Mrs. Arndell, widow of the late Doctor Arndell, which was sent to be transmitted to the Secretary of State for the Colonies through His Excellency the Governor General Darling, the 18th Feby., 1830, The which was not forwarded. Mrs. Arndell wishing to make application through friends in England requests the above documents may be returned with all convenient despatch to me.

Request for return of documents.

I have, &c.,

L. E. THRELKELD.

The acknowledgement of the Receipt of the above document bears date 8th March, 1830, marked in the margin 30/1721 and No. 30/41.

Further letters.

The next communication stating it could not be forwarded, from a recent communication from the Secretary of State bears date 23 March, 1830, Marked 30/1721, 30/2105 and No. 30/45.

[Appendix No. 7.]

COLONIAL SECRETARY MACLEAY TO REVD. L. E. THRELKELD.

Reverend Sir, Colonial Secretary's Office, 9th July, 1834.

In compliance with the request contained in your letter of the 31st March last, I do myself the honor to return herewith the

Return of memorial.

1835.
16 Nov.

Memorial of Mrs. Arndell, praying to be allowed a Pension as the Widow of the late Assistant Surgeon Arndell, and which was enclosed in your letter of the 18th February, 1830, to be referred to the Secretary of State, but not forwarded to England in consequence of the instructions alluded to in my letter of the 23rd of March, 1830.

I have, &c.,
ALEX. McLEAY.

LORD GLENELG TO SIR RICHARD BOURKE.
(Despatch No. 79, per ship Strathfieldsaye.)

19 Nov.

Sir,

Downing Street, 19th November, 1835.

Refusal to
reconsider
decision *re*
E. A. Slade.

I have had under my consideration your Despatch No. 48 of the 1st June last, enclosing a Memorial from Mr. Slade, relative to his removal from the Office of Police Magistrate at Sydney; and I have only to state, that I can see no reason to alter the view of the case, which was communicated to you by my Despatch No. 57 of the 11th of October last.

I am, &c.,
GLENELG.

SIR RICHARD BOURKE TO LORD GLENELG.
(Despatch No. 103, per ship Susanna.)

20 Nov.

My Lord,

Government House, 20th November, 1835.

Transmission
of replies to
queries by
audit office.

In reply to the Despatch of Mr. Secretary Spring Rice of the 7th November last, No. 37, I have the honor to transmit in conformity to his instructions such explanation, as I have been able to obtain in regard to payments made to Captain Rolland for arrears of Salary as Commandant at Port Macquarie, to Captn. Rossi for Secret Service money, and to Mr. Garling for prosecutions before the Quarter Sessions. These three being the only items of Expenditure in the Report of the Board of Audit upon which I have been required to furnish explanation, I presume the remainder must have been considered by the Secretary of State as duly authorized and have been passed accordingly; but I have to regret that any question should have arisen in consequence of the omission to send with the accounts from hence the required Extracts of Despatches. I will be careful to prevent this omission in future and have directed Copies of the Estimates voted by the Council to be transmitted with the Colonial accounts to the Auditors.

I have, &c.,
RICHD. BOURKE.

Papers to be
forwarded
to auditors.

[Enclosure.]

[A copy of this paper is not available.]

SIR RICHARD BOURKE TO UNDER SECRETARY HAY.

(Despatch per ship Susanna.)

1835.
20 Nov.

Sir, Government House, 20 November, 1835.

I have the honor to acknowledge the receipt of your Letter of the 14 March last enclosing the Copy of one addressed to the Earl of Aberdeen by a relation of Hugh and Neill McLaine, supposed to be detained as Prisoners by the Natives of New Zealand, and directing that enquiry be made regarding their fate. Having complied with this direction, I have the satisfaction of stating that their captivity was but of short duration, and that they are said to have been in good health at the Cape of Good Hope in June last.

Despatch
acknowledged.

Further particulars regarding them are contained in the accompanying Memorandum.

I have, &c.,

RICHD. BOURKE.

[Enclosure.]

STATEMENT BY J. STEEL.

HUGH and Neil McLaine are at present settled at Launceston with their families, the former in command of the Schooner "John Dunscombe" of about 80 Tons, in which craft they Emigrated with their families from the Island of Coll in Argyleshire.

Report *re*
H. and N.
McLaine.

On a Voyage from Launceston to New Zealand, the "John Dunscombe" unfortunately got on Shore at a place called East Cape at the Bay of Plenty and were made captives by the Natives; they ransomed themselves by forfeiting the Cargo, and succeeded in getting the Vessel off but with considerable damage.

Their loss on this occasion was from £4 to £500 including the repair of the Vessel and the loss of the Cargo.

The "John Dunscombe" was in June last at the Cape of Good Hope loading for Launceston, and a friend of mine just removed from Launceston informs me that the "John Dunscombe" was on the eve of departure on a trading Voyage to New Zealand, and that the McLaines were in good Health and spirits.

JAMES STEEL.

SIR RICHARD BOURKE TO LORD GLENELG.

(Despatch No. 109, per ship Susanna; acknowledged by lord Glenelg, 18th August, 1836.)

My Lord, Government House, 21 November, 1835.

21 Nov.

I have the honor to transmit a Memorial from William Henry, which, though addressed to myself, contains a request that, if I decline acceding to its prayer, it may be forwarded for your Lordship's decision.

Transmission of
memorial from
W. Henry
protesting
against eviction
from land.

The Memorialist complains of being called on to relinquish 100 acres of Land, which he has for some years occupied and improved, in favor of a person to whom a Grant of this Land was

1835.
21 Nov.

Transmission of
memorial from
W. Henry
protesting
against eviction
from land.

promised by General Darling. It appears that, before such promise was given, the claim now brought forward was referred to the Surveyor-General, who reported it unfounded. No deed has yet been issued, but I have given directions for its preparation and Henry will be obliged to remove.

With regard to the alleged improvements, the Surveyor General reports that their value has been compensated by the Sale of Timber cut upon the Land during Henry's occupation.

I have, &c.,

RICHD. BOURKE.

[Enclosure.]

[A copy of this memorial is not available.]

SIR RICHARD BOURKE TO LORD GLENELG.

(Despatch No. 110, per ship Susanna; acknowledged by Lord Glenelg, 7th September, 1836.)

22 Nov.

My Lord,

Government House, 22 Novr., 1835.

Transmission of
memorial from
E. Jenkins.

I have the honor to forward a Memorial addressed to your Lordship by Mrs. Elizth. Jenkins, praying compensation for loss sustained through the error of an assist. Surveyor in measuring 100 acres for her deceased husband, upon Land which had been granted to another person.

Statement
re claim to
land.

The Surveyor General reports that 100 acres of Land were promised by Sir Thomas Brisbane to Thomas Steel on the 15 Novr., 1825, under the conditions dated Downing Street, Novbr., 1824, one of which prohibited alienation within seven years. There appears no reason to doubt the statement of the Memorial with regard to the purchase of Steel's interest by James Jenkins, deced., in the year 1826 for £25; and it is admitted by the Survr. General that the Land was measured by mistake upon an allotment previously granted to Mr. Wentworth.

These facts being represented to me by the deceased Claimant, I ordered him 100 acres elsewhere in compensation. I conceived this some stretch of liberality, the Land having been forfeited by a premature alienation. Jenkins, however, refused the compensation thus offered as inadequate, and was then informed that his claim could be no further recognized. It is against this decision that his widow now appeals.

Non-enforce-
ment of
conditions of
land grants.

I should observe that the penalty for alienation within seven years has rarely, if ever, been enforced by ejection of the wrongful purchaser or his assigns, and it was under this consideration that the 100 acres were offered to Jenkins in lieu of those which had been erroneously measured. But, although this

equivalent might be granted as a special favor, it by no means follows that he should be compensated by the Crown for all the loss and inconvenience he has sustained by having purchased under a defective Title.

I have, &c.,

RICHD. BOURKE.

1835.
22 Nov.

[Enclosure.]

THE Humble Memorial of Elizabeth, Widow of the late James Jenkins, of Darling Harbour, in the Township of Sydney, and Colony of New South Wales, deceased,

Memorial of
E. Jenkins.

To His Majesty's Principal Secretary of State for the Colonial Department.

Sheweth,

1. That the said James Jenkins resided in this Colony for the long period of Thirty-four Years, and a few weeks ago departed this life suddenly, leaving Your Memorialist with a family of eight children dependant upon her for support.

2. That His Excellency Sir Thomas Brisbane, while Governor in Chief of the said Colony, was pleased to grant to Thomas Steel, a retired Soldier, one hundred acres of Land at Manly Cove in the District of Pitt Water.

3. That, on the 19th April, 1826, the said Thomas Steel, by two instruments in writing under his hand and Seal, attested by two Witnesses, and duly Registered in the office of the Registrar of the Supreme Court, as required by the Act of the Governor and Legislative Council in that behalf made and provided, bargained and sold to the said James Jenkins, and his heirs and assigns for ever, for and in consideration of the sum of Twenty-five Pounds of lawful money of Great Britain, all his (the said Thomas Steel's) right, title, and interest in and to the said one hundred acres of Land.

Purchase
of land by
J. Jenkins
from T. Steel.

4. That, in the Year 1827, the said Land was duly measured by Mr. Elliott and Mr. White, Officers of the Surveyor General's Department, and by them entered in the usual manner upon the official chart of the Colony, and the said James Jenkins' possession of the Land was then regularly recognised and confirmed.

5. That Your Memorialist's late husband forthwith proceeded to improve the said Land by clearing, fencing, cultivating and building thereon; he erected a stone dwelling-house, thirty feet in length and seventeen feet in breadth, containing five apartments; and, moreover, he constructed at his own expense (save that he was assisted with the loan of four Convicts for the period of seven weeks, who, however, were victualled by himself) a line of road extending from Long Reach to North Harbour, and including not less than thirteen bridges, which also were erected at his own expense; and those improvements cost him at least three hundred Pounds Sterling.

Construction
of road to
north harbour.

6. That, upwards of six Years having elapsed from the date of purchase aforesaid, Your Memorialist's late husband addressed to the Colonial Secretary an application, dated the 20th June, 1832, for the Deeds of Grant of the said one hundred acres, and those of other Lands of which he had become the lawful proprietor; and in reply to that application, he received a Letter from the Honorable the Colonial Secretary, dated 5th October, 1832. stating, by command of His Excellency the Governor, that the application

Application
for deeds of
grant.

1835.
22 Nov.

had been referred to the Surveyor General for the purpose of being reported on in its turn; and that, when the descriptions of the Lands were received from that Officer, the preparation of the Deeds would be notified in the Government Gazette. *Vide Appendix A.*

Error in survey
of farm.

7. That Your Memorialist's late husband heard nothing farther of the said application, until he received a Letter from the Honorable the Colonial Secretary, dated 15th March, 1833, acquainting him, by command of His Excellency the Governor, that the Surveyor General had reported that this Farm had been measured by mistake, in Mr. Oxley's time, on land previously granted to Mr. Wentworth; and that therefore it would be necessary for Steele "*or his representative*" to notify to the Surveyor General a fresh selection, previous to the 1st June then next ensuing, on Land which was generally open to Grantees on the 1st July, 1831. *Vide Appendix B.*

New selection
ordered.

8. That your Memorialist's late husband was justly surprized and indignant that, after having held possession of the said Land for a period of seven Years, and expended so large a sum of money in improvements thereon, he should then be called upon to relinquish the same, and to make another selection of equal extent, for no other reason than that the Officers of the Government itself had made a mistake; and thereupon addressed a Memorial to the Governor, dated 13th April, 1833, setting forth all the circumstances of the case, and praying that, in addition to his being authorized to select the like quantity of Land, he might be allowed compensation, in Land or otherwise, for the sum he had expended in the aforesaid improvements.

Compensation
claimed for
improvements.

9. That, in reply to the said Memorial, Your Memorialist's late husband received from the Honorable The Colonial Secretary a Letter dated 8th July, 1833, stating, by command of His Excellency the Governor, that it did not appear to His Excellency that any other person than Steele, the original donee, could be recognized by the Government in the matter. *Vide Appendix C.*

Refusal to
recognise
claims of
J. Jenkins.

10. That, in reference to this last intimation that Your Memorialist's late husband could not be recognized in the matter, Your Memorialist begs respectfully to advert to *appendix B*, wherein it is stated by the Colonial Secretary that a fresh selection must be made by the said Steele, "*or his representative*"; and she begs respectfully to remind the Right Honorable Secretary of State that, in the 3rd Paragraph of this Memorial, it is shewn that her late husband *was*, both in *law* and in *fact*, the "*representative*" of the said Steele.

Request for
compensation.

11. That, convinced that His Majesty's Government will attach no importance to this merely verbal distinction, Your Memorialist respectfully solicits attention to the real merits of the case, namely, the fortunes of a private subject have been seriously injured by means of an error of office, and that subject asks a just and equitable compensation for the injury so inflicted.

12. That Your Memorialist's late husband, by his last Will and Testament, devised and bequeathed all his interest in the estate aforesaid to his Widow and eight children; and Your Memorialist and her numerous offspring now cast themselves, with humble confidence, upon the justice and humanity of His Majesty's Government.

Wherefore Your Memorialist humbly prays, that the Right Honorable the Secretary of State for the Colonies will be pleased to take the premises into his most favourable consideration, and instruct His Excellency the Governor of New South Wales to grant to Your Memorialist and family full compensation, in Land or otherwise, for the buildings, enclosures, roads and other improvements made as aforesaid, upon the said estate at Manly Cove.

1835.
22 Nov.
Request for
compensation.

And Your Memorialist as in duty bound will ever pray, etc., etc.

ELIZABETH JENKINS.

Sydney, New South Wales, 5th March, 1835.

[Appendix A.]

(Referred to in Paragraph 6, No. 32/1083.)

In the matter of an Appeal to His Majesty's Government.

Sir, Colonial Secretary's Office, Sydney, 5th October, 1832.

I am directed by His Excellency the Governor to inform you that your application of the 26th June last for the Deeds of certain Lands originally granted to the Individuals named in the margin,* has been transmitted to the Surveyor General for the purpose of being reported on in its turn; and that, when the descriptions of the same are received from that officer, the preparation of the Deeds will be notified in the Government Gazette.

Reply to
application for
deeds of grant.

I am, &c.,
T. C. HARINGTON.

MR. JAMES JENKINS, Darling Harbour,
A true Copy.

[Appendix B.]

(Referred to in Paragraph 7, No. 33/183.)

In the matter of an appeal to His Majesty's Government.

Sir, Colonial Secretary's Office, Sydney, 15th March, 1833.

With reference to your Letter of the 26th June, in which you request that the Deeds may be prepared of one hundred acres of Land at Manly Cove, stated to have been originally promised to Thomas Steele;

I am directed by His Excellency the Governor to inform you that the Surveyor General reports that this Farm was measured by mistake in Mr. Oxley's time on Land previously granted to Mr. Wentworth, and that therefore it will be necessary for Steele or his representative to notify to the Surveyor General a fresh selection, previous to the 1st of June next, on Land which was generally open to grantees on the 1st July, 1831.

Error in survey
of farm.
New selection
required.

The Surveyor General has been duly apprized as above, and instructed to report such selection, when notified, for His Excellency's final approved (if unobjectionable) previous to possession being authorized.

I am, &c.,
T. C. HARINGTON.

MR. JAMES JENKINS, Darling Harbour,
A true Copy.

[Appendix C.]

(Referred to in Paragraph 9, No. 33/404.)

In the matter of an appeal to His Majesty's Government.

Sir, Colonial Secretary's Office, Sydney, 8th July, 1833.

With reference to Your Memorial of the 13th April, respecting the one hundred acres of Land measured to Thomas Steele at Manly Cove, although subsequently found to have been included in a Deed of Grant to Mr. Wentworth, I am directed by the Governor to inform you that it does not appear to His Excellency that any other person than Steele, the original Donee, can be recognized by the Government in the matter.

Refusal to
recognise claim
by J. Jenkins.

I am, &c.,
T. C. HARINGTON.

To MR. JAMES JENKINS, Sydney,
a true Copy.

* 100 acres, Thomas Steele; 200 acres, Wm. Crozier; 30 acres, Jas. MacDonald.

1835.
26 Nov.

LORD GLENELG TO SIR RICHARD BOURKE.
(Despatch No. 80, per ship Strathfieldsaye.)

Sir, Downing Street, 26th November, 1835.

With reference to the Communication which was addressed to you on the 24th of May, 1833, I now transmit to you for your information and guidance a copy of an Order which was made by His Majesty in Council on the 20th Instant, constituting the Port of Sydney in New South Wales, and the Ports of Hobart Town and Launceston in Van Diemen's Land Free Ports and Free Warehousing Ports; and I have to request that you will take such measures as may be necessary on your part for giving effect to this order.

I am, &c.,
GLENELG.

[Enclosure.]

ORDER IN COUNCIL.

At the Court at Brighton, the 20th of Novr., 1835. Present: The King's Most Excellent Majesty in Council.

Whereas, by an Act passed in the Session of Parliament held in the 3rd and 4th years of His present Majesty's Reign, intituled, "An Act to regulate the Trade of the British Possessions abroad," it is amongst other things enacted that it shall be lawful for His Majesty, by and with the advice of His Privy Council, by any Order or Orders in Council to be issued from time to time, to give such directions and make such Regulations touching the Trade and Commerce to and from any British Possessions on or near the Continent of Europe, or within the Mediterranean Sea or in Africa, or within the limits of the East India Company's Charter, excepting the Possessions of the said Company, as to His Majesty in Council shall appear most expedient and salutary, anything in the said Act to the contrary notwithstanding, and that, if any goods shall be imported or exported in any manner contrary to any such Order of His Majesty in Council, the same shall be forfeited together with the Ship importing or exporting the same; Now therefore, in pursuance of the said recited Act of Parliament and in exercise of the authority thereby in His Majesty in Council in that behalf vested, it is hereby ordered by His Majesty, by and with the advice of His Privy Council, that no Goods shall be imported into nor shall any Goods except the produce of the Fisheries in British Ships be exported from His Majesty's Colonies of New South Wales and Van Dieman's Land by Sea, from or to any place other than the United Kingdom or some other of His Majesty's Possessions abroad, except into or from the respective Ports of Sydney in New South Wales and of Hobart Town and Launceston in Van Dieman's Land, And it is hereby ordered by His Majesty by and with the advice of His Privy Council that the free importation of Goods into and the free exportation of goods from the said Ports of Sydney, Hobart Town and Launceston shall be permitted; And that the same Ports shall be free Warehousing Ports. And the Right Honorable the Lords Commissioners of His Majesty's Treasury are to give the necessary directions herein accordingly.

C. GREVILLE.

Transmission of
order-in-council.

Order-in-council
constituting
ports of Sydney,
Hobart and
Launceston as
free ports.

SIR RICHARD BOURKE TO LORD GLENELG.

1835.
26 Nov.

(Despatch No. 113, per ship *Susanna*; acknowledged by lord Glenelg, 23rd May, 1836.)

My Lord, Government House, 26 Novbr., 1835.

Referring to my Despatch of the 3rd October last, No. 93, by which I submitted to your Lordship a claim advanced by Mr. Justice Burton to be regarded as senior to Mr. Justice Dowling on the Bench of this Colony, together with Mr. Dowling's reply, I have now the honor to transmit a further letter which I have received from the latter gentleman, and also one addressed to Your Lordship, pointing attention to the priority of the date of his own Commission* as Judge of this Colony, over that of the charter† of the Cape of Good Hope, by which Mr. Burton was appointed to the Bench of that Settlement.

Transmission of letters from J. Dowling *re* seniority as puisne judge.

This circumstance Mr. Dowling states to have been unknown to him when he before addressed your Lordship. I need not add that it was equally unknown to myself or would have been adverted to in my Despatch before referred to.

I have, &c.,

RICHD. BOURKE.

[Enclosure No. 1.]

MR. JUSTICE DOWLING TO LORD GLENELG.

My Lord, New South Wales, 26th November, 1835.

Adverting to a correspondence which has taken place in this Government, relating to a claim made by William Westbrooke Burton, Esquire, to take precedence of myself as Senior Puisne Judge on the Bench of the Supreme Court of this Colony, I take the liberty of adding to the letter, which I had the honor of addressing to Your Lordship on this subject, under date 2nd October last, that, on this day, for the first time I have been favoured with the perusal of a printed copy of His Majesty's Royal Charter for the better and more effectual administration of Justice within the Colony of the Cape of Good Hope, the date of which, I apprehend, will at once decide the question which Mr. Burton has agitated, even if there could have been any previous doubt on the point.

Precedency as puisne judge decided by date of charter of justice for Cape of Good Hope.

By that Charter, which is dated on the 24th day of August in the 8th year of His late Majesty's reign, that is to say, in the year 1827, I find that Mr. Burton was appointed the Second Puisne Judge of the Supreme Court at the Cape of Good Hope, whereas my Commission under the Royal Sign Manual, by which His Majesty was graciously pleased to appoint me to be a Puisne Judge of the Supreme Court in New South Wales under the authority of the Statute 4th Geo. 4, c. 96, giving me rank at the same time "next to the Chief Justice," bears date the 6th day of August in the same year; so that in fact I became a Judge of New South Wales *eighteen* days prior in point of time to Mr. Burton's appointment to the Cape of Good Hope. Mr. Burton, I understand, rests his claim to Seniority upon the mere fact that he was *sworn into office* at the Cape of Good Hope before I entered upon my duties

* Marginal note.—6 August, 1827.

† Marginal note.—24 August, 1827.

1835.
26 Nov.
Invalidity
of claim of
W. W. Burton.

in New South Wales. I submit, however, with great deference, that this circumstance is not the true test of seniority, but that the question must be governed by reference to the dates of our respective appointments. It may be true that Mr. Burton entered upon his duties as a Judge before myself; but there are not wanting authorities to shew that an appointment under the Royal Sign Manual takes effect from the date thereof, and on that principle the argument founded on the fact of entering upon the duties of office before myself cannot avail in the present instance.

It is manifest, I venture to think, that, if the date of Mr. Burton's appointment now given had not been withheld from me at the time the question was raised, Your Lordship might have been spared the unnecessary trouble of determining a point, which could at once have been decided in this country. But, when called upon officially to state and support the grounds of my claim to seniority, I could not forbear dilation upon a point so seemingly inconsiderable, though to me of too much moment to be treated with contraction.

Being now however left for the decision of His Most Gracious Majesty, I respectfully wait its adjustment.

I have, &c.,
JAMES DOWLING.

[Enclosure No. 2.]

MR. JUSTICE DOWLING TO SIR RICHARD BOURKE.

Sir, Sydney, 26th November, 1835.

Claim to
seniority on
date of charter
for Cape of
Good Hope.

With reference to the correspondence which has taken place on the Subject of His Honor Mr. Justice Burton's claim to be considered the Senior Puisne Judge of The Supreme Court in this Colony, I do myself the honor of informing your Excellency that I have this day been made acquainted for the first time with a fact, bearing materially and, I apprehend, decisively upon the question which His Honor has agitated, namely, that the Royal Charter of Justice, by which he was appointed to be a Judge at the Cape of Good Hope, bears date the 24th day of August, 1827, whereas my commission under the Royal Sign Manual, issued under the authority of the Statute 4th Geo. 4, c. 96, bears date the *Sixth* day of August, 1827, being eighteen days prior in point of time to His Honor's appointment.

Deeming this fresh (and hitherto to me unknown) circumstance important for the consideration of The Right Honorable the Secretary of State upon the whole question, I have to request that Your Excellency will be pleased to cause this, and the enclosed letter to the Secretary of State to be transmitted to England, by the first opportunity, by way of addenda to my letter to that Noble Lord, under date the 2nd October last.

I have, &c.,
JAMES DOWLING.

SIR RICHARD BOURKE TO LORD GLENELG.

(Despatch No. 114, per ship *Susanna*; acknowledged by lord Glenelg, 15th August, 1836.)

27 Nov.
Transmission of
memorial from
E. W. Rudder.

My Lord, Government House, 27 November, 1835.

I have the honor to forward, according to Regulation, a Memorial which has been addressed to Your Lordship by Mr. Enoch William Rudder, who arrived from England with a view

to Settle in this Colony in Feby., 1834. He solicits that he may receive Land without purchase, on the ground that his arrangements for proceeding to New South Wales were commenced in England before the promulgation of the present Regulations in the year 1831. It appears however from his own statement that Lord Goderich declined acceding to an application he addressed to His Lordship before leaving England to the same effect.

1835.
27 Nov.

Request for land grant without purchase.

In stating the disappointments he has met with in this Colony, with a hope of inducing Your Lordship to take a more favorable view of his case, he has taken occasion to complain that a delay of seven months has occurred in the measurement of Land, which he applied to purchase in the regular way. It may be necessary that I should explain how this delay arose. The Land he selected was in a very remote part of the Colony, so remote that in his own application he expresses a doubt whether it were within the limits assigned for location. In fact, so little Land had been sought for in this direction that the Boundary had never been accurately marked out. To do this required time, it being necessary to wait until a Surveyor could be conveniently spared from other parts where more work was to be done.

Delay in measurement of land purchased.

I have, &c.,

RICHD. BOURKE.

[Enclosure.]

[A copy of this memorial is not available.]

LORD GLENELG TO SIR RICHARD BOURKE.

(Despatch No. 81, per ship Henry Tanner.)

Sir,

Downing Street, 30th November, 1835.

30 Nov.

The successive changes, which have taken place in His Majesty's Government since the receipt of your Despatch of the 30th September, 1833, No. 76, and the importance of the subject to which it refers, have occasioned a delay in answering it, which I much regret, but which has been in great measure unavoidable.

Delay in reply to despatch.

Your despatch had, however, received the serious attention of my Predecessors, and, since my accession to the office which I have the honor to hold, I have bestowed much consideration on its contents. I have also had the advantage of frequent communications with Mr. Archdeacon Broughton on the Ecclesiastical and Scholastic Establishments in New South Wales; and I have referred to the various communications on the same topic, which have taken place, from time to time, between the Local Authorities and my Predecessors in this Department.

Consideration of problems re church and school establishments.

His Majesty's Government are deeply sensible of the importance of the subject thus brought under their consideration. They

1835.
30 Nov.

Necessity
for general
education in
colony.

fully concur with you in the opinion 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. With a view not only to higher interests, but also to the good order and social improvement of the Colony, too great a value can scarcely be set upon the promotion, by all due means, of those habits and principles, which tend so eminently to elevate the human character, and to oppose the firmest obstacle to crime and immorality. The only question is, that of the most effectual mode of attaining this end, regard being had to the condition of the Colony and the sentiments of the Inhabitants for whose benefit and at whose expense the Instruction is to be provided.

Approval of
statement
submitted by
Sir R. Bourke.

With reference to this question, I have much pleasure in offering to you, on their part and my own, the acknowledgment of His Majesty's Government for the full and clear statement, which you have transmitted to them, of the existing means of Religious Instruction and Education, in connection with the wants and circumstances of the Colony; and also for the suggestions with which you have followed up that statement. To these suggestions, His Majesty's Government, bearing in mind your local experience and influenced by the general confidence which they place in your judgment, are disposed to attach great importance.

Problems of
churches and
schools to be
decided by
legislative
council.

A general principle, to which I am anxious to adhere on this as on other matters affecting the internal interests of the Colony, is that the details of the measures to be adopted should be left to the decision of that Body, to which, by the existing Constitution, Legislative powers have been entrusted, and which must be supposed to be best informed as to the wants of the Population, and the most efficient and satisfactory means of supplying them. I am disposed, therefore, to commit to the Governor and the Legislative Council the task of suggesting and enacting such Laws and Regulations for the distribution and appropriation of the Funds applicable to the general purposes of Religion and Education, as they consider best adapted to the exigencies of the Colony. I feel it, however, a duty to offer some observations on the plan which you have submitted for the consideration of His Majesty's Government.

Approval of
general
principles
enunciated by
Sir R. Bourke.

In the general principle upon which that plan is founded, as applicable to New South Wales, His Majesty's Government entirely concur. Attached as I am, in common with the other Members of the Government, to the Church of England, and believing it, when duly administered, to be a powerful Instrument in the diffusion of sound Religious Instruction, I am desirous

that every encouragement should be given to its extension in New South Wales, consistently with the just claims of that large portion of the Community, which is composed of Christians of other denominations. In dealing with this subject, in a case so new as that of the Australian Colonies, few analogies can be drawn from the Institutions of the Parent state to our assistance. In those Communities, formed and rapidly multiplying under most peculiar circumstances, and comprising great numbers of Presbyterians and Roman Catholics, as well as Members of the Church of England, it is evident that the attempt to select any one Church as the exclusive object of Public Endowment, even if it were advisable in every other respect, would not long be tolerated. To none of the numerous Christians of those persuasions should opportunities be refused for Worship and Education on principles which they approve.

1835.
30 Nov.

Public
endowment
for religions.

The Plan, which you have suggested, appears to me fully in accordance with these views in both its branches, in that which relates to the Places and Ministers of Worship, or, as it may be more briefly described, to Public Religion, and in that which concerns Public Education.

With respect to the first branch, the equity of the proposed Rule cannot be contested. The amount of private contribution is to be the condition and the measure of Public aid. The Church of England from its greater numerical strength in the Colony, as compared with that of either of the other denominations, and from its superior command of resources, will probably obtain a share proportionally large of the general fund. But ample encouragement and assistance will be afforded to the efforts of the other Communities towards a similar object.

Endowment
for churches
and clergy.

The proposal, that the Trustees, in whom the care of the Buildings when completed is intended to be vested, should be elected by the Congregation, appears to me not sufficiently definite; and I would suggest that their nomination should be vested, in the first instance, in the Subscribers, with a provision for supplying Vacancies as they occur. The number of the Trustees should also be limited by Law. There can be no question, but that it will be right to continue to the present Incumbents those Salaries and advantages, which they now enjoy under any existing arrangement with the Government.

Trustees for
church
buildings.

Some deviation, however, from this general plan may be necessary in order to provide Religious Instruction for Districts comprising any large body of Convicts, where there is no reason to anticipate that voluntary Subscriptions can be obtained for the erection of a Place of Worship or for the Ministrations of Religion.

Necessity for
religious
instruction
amongst
convicts.

1835.
30 Nov.

Proposals for
chaplains at
Norfolk island
and Moreton
bay ;

and for
abolition of
establishment
at Moreton bay.

Inability to
procure
chaplain of
Church of
England for
Norfolk island.

Decision to
erect bishopric
in New South
Wales.

Nomination
of W. G.
Broughton
as bishop.

In your Dispatch of the 28th February, 1832, No. 30, you stated your entire concurrence in opinion with the Archdeacon as to the absolute necessity of stationing a Minister of Religion at Norfolk Island, and Lord Ripon, in a Despatch of the 25th Decr., 1832, No. 148, suggested a mode by which he hoped an immediate provision might be made for stationing one of the Chaplains then in the Colony at each of the Penal Settlements of Norfolk Island and Moreton Bay, so long as a large Convict Population should be collected there. I regret to find that this arrangement could not be carried into effect. In the same despatch, Lord Ripon recommended to your serious consideration the practicability of breaking up the Establishment at Moreton Bay, which you had yourself previously contemplated. As I hope that measures may have been taken for carrying this recommendation into effect, I may now, I presume, take for granted that the services of a Minister of Religion will be required only for one Penal Settlement. Fully agreeing with you as to the necessity of such an appointment, I have used every endeavour to find a Clergyman of the Church of England qualified for the Office by character and that Missionary spirit, which you justly think of such importance, and, at the same time, willing to undertake it; but I regret to inform you that I have not been successful. The Archdeacon, of whose anxiety on this subject you are well aware, has been equally unfortunate; and I have, therefore, felt it my duty to institute an enquiry in other quarters, and I hope shortly to be able to announce to you that I have obtained the services of a Clergyman of some other denomination.

The reasons, which you have alleged in favor of the erection of the Archdeaconry of New South Wales into a Bishopric, seem to me conclusive. My Predecessor had determined to carry this proposal into effect; and His Majesty's present Government have decided, with the sanction of the Archbishop of Canterbury, to adhere to that determination. The zeal and energy, with which Mr. Broughton has discharged the duties of Archdeacon of New South Wales, and the strong interest which he takes in the Spiritual welfare of the Colony, pointed him out as the fittest person to be invested with the Episcopal Office; and I have much pleasure in informing you that His Majesty has been graciously pleased to nominate him to the new See. He will receive the same Salary, which he has hitherto received as Archdeacon; and any reduction, which the Governor and Council may deem practicable and expedient, will, of course, take effect only on the appointment of a Successor.

I now proceed to offer some observations on the second part of your plan, that which has reference to Public Education.

1835.
30 Nov.

Necessity for maintenance of orphan schools.

Committees for control of orphan schools.

Endowment to be withdrawn from King's school at Parramatta.

Proposal for non-denominational schools.

The Orphan Schools, tho' the expense of their maintenance is considerable, make provision for a Class of Children, who have no natural protectors; and, although I should doubt the expediency of extending them, I think that sufficient grounds exist for their continuance, at least for a time; nor do I see any reason for altering the general system of management, or the plan of education, provided that you are satisfied that no undue Expenditure is sanctioned, and that they are maintained in a state of efficiency. With this view, I think it highly expedient that such Committees, as are recommended both by yourself and the Archdeacon, should be appointed for the purpose of internal regulation and the superintendance of all matters connected with the conduct and administration of the Schools, the Visitor exercising the ordinary powers attached to that Office.

The King's School at Paramatta, however, appears to me very differently circumstanced. The Pupils of this Institution belong chiefly, if not exclusively, to that Class of Society, which has no just claim to gratuitous aid at the Public expense towards the education of Youth; and I think that, if the School is to be maintained, it should be at the charge of the Parents or Connections of the Scholars. An immediate withdrawal of the whole support, which it has received from the Public funds, would probably be attended with great inconvenience; but I think it right to convey to you my opinion that eventually it ought not in any degree to be a charge upon the Public.

In respect to Education generally, it follows, from the principles already laid down, that some plan should be adopted for the establishment of Schools for the general Education of Youth in the Colony, unconnected with any particular Church or Denomination of Christians, in which Children of every Religious persuasion may receive Instruction. This object it is proposed to effect, not by the exclusion of Religious Instruction from the School, but by limiting the daily and ordinary Instruction of this nature to those leading Doctrines of Christianity, and those practical duties on which, I hope, all Christians may cordially agree. The peculiar tenets of any Church ought to find no place as such in these general Schools; but opportunities should be afforded, at stated periods, for the imparting of Instruction of this nature to the Children of different persuasions by their respective Pastors. Such is the plan of National Education, which has recently been adopted in Ireland, and as I have reason to believe with considerable success, notwithstanding some peculiar obstacles arising from circumstances not likely, as I trust, to exist in the Australian Colonies. This plan will require the formation of a Board of Education composed of Members

1835.
30 Nov.

Proposed board
of education.

of different Religious denominations. The Board will have to agree on such extracts from the authorised Version of the Scriptures to be used in the Schools, as they shall deem best adapted for the Instruction of Youth. It will also be their duty, by a vigilant superintendance, to secure a strict adherence to the Regulations under which the Schools will have been constituted. Persuaded as I am that Education founded on the Scriptures is the best calculated to produce those permanent effects, which must be the object of every system of Education, I should wish that it may be thought practicable to place the whole of the new Testament at least in the hands of the Children; but, at all events, I hold it to be most important that the extracts in question should be of a copious description.

Proposed
transmission
of papers *re*
education.

It is my intention to send to you, for your information and assistance, various documents relating to the system of National Education in Ireland, and also a Report of the British and Foreign School Society, which is conducted on very liberal and comprehensive principles. I feel assured that I may safely leave to you and the Legislative Council the task of framing, on these principles, such a system as may be most acceptable to the great body of the Inhabitants, and at the same time most conducive to the important end in view.

Educational
system to be
framed by
legislative
council.

I have hitherto had in view those Schools, which are to be supported wholly at the Public expense; and I am of opinion that Schools so supported ought to be invariably of the general nature just adverted to. But the system of Public Education would, I think, be incomplete, if it did not leave an opening for the admission on certain terms, of private contributions in aid of the Public. There may be persons and even Classes of persons, who may entertain such objections to the general plan as must practically exclude them from a participation in its benefits, and who may yet be unable to supply a proper Education for their Children from their own funds exclusively. It would be hard that any large Class of His Majesty's Subjects should be debarred from the advantage of Education on principles, which they conscientiously approve. I submit it to you and your Council as a just object for your consideration, whether, in such cases, some pecuniary assistance might not be afforded from the Public funds in aid of Contributions from parties dissatisfied with the more comprehensive system. The terms and conditions on which such assistance may be tendered, I leave to the deliberate judgment of yourself and your Council, persuaded that you will arrange a system, which, excluding no large Class of conscientious Religionists from its benefits, shall be in a true sense National.

Subsidies
proposed for
private schools.

I fully approve of your suggestion that the Buildings and Furniture of the existing primary Schools should be left in the hands of any of the Congregation of the Church of England, who may undertake to maintain the Schools at their own expense. An immediate withdrawal from these Schools of the whole of the support, which they have hitherto received from the Government, would probably, as in the case of the King's School at Paramatta, involve them in considerable difficulty; but I feel assured that the mode in which the new system will be introduced, as well as the details of the system itself, will receive that mature consideration, which will secure its adoption with the least possible inconvenience to any existing Institution.

1835.
30 Nov.
Buildings and furniture of existing primary schools.

I have not previously adverted to the establishment of Sunday Schools, because they are chiefly found in connection with some particular Church or Congregation, and, the services of the Teachers being for the most part gratuitous, they do not require the aid of Public funds. I am, however, unwilling to close my despatch on this subject without expressing my sense of the great value of such schools, and of the claim they have to encouragement, not indeed as a substitute for others but as affording the opportunities of fuller Religious Instruction than can usually be given in any daily Schools of general Education.

Value of Sunday schools.

In this despatch, as in that to which it is a reply, the subject of Religious Instruction and Education is considered in relation only to the European Inhabitants of Australia, without adverting to the case of the Aborigines, which being peculiar is properly reserved for separate discussion. I shall, therefore, content myself in this place with expressing what I know to be also your feeling, that the moral improvement of that unfortunate Race is an object among the first, which demand the attention of the Colonial and the Home Governments.

Necessity for moral improvement of aborigines.

I am, &c.,
GLENELG.

LORD GLENELG TO SIR RICHARD BOURKE.

(Despatch No. 82, per ship Henry Tanner; acknowledged by Sir Richard Bourke, 11th April, 1837.)

Sir, Downing Street, 30th November, 1835.

In my despatch of this date, numbered 81, on the subject of Religious Instruction and Education in New South Wales, I have abstained from any specific allusion to the management or to the application of the Rents and Proceeds of the Lands formerly held by the Church and School Corporation, which was dissolved by the Order in Council* of February, 1833, thinking it

Problem of appropriation of funds of church and school estates.

* Note 56.

1835.
30 Nov.

Opinions of
Sir R. Bourke
and archdeacon
re appropriation
of estates.

preferable to advert to this topic in a Separate despatch. By that Order in Council, those Lands became vested in the Crown, to be disposed of by His Majesty, His Heirs and Successors, in such manner as shall appear most conducive to the maintenance and promotion of Religion and Education of Youth in the Colony. In your Despatch of the 1st October, 1833, No. 77, you have transmitted a Memorandum from the Archdeacon of New South Wales, regarding the management of these Lands, with a Minute written by yourself on each specific proposal of the Archdeacon. From that paper, I infer that a difference of opinion existed between yourself and the Archdeacon as to the construction of the Order in Council, as it respects the appropriation of the Lands in question. It appears that the Archdeacon contended that the Lands were applicable to the maintenance and promotion of Religion and Education, exclusively in connection with the Church of England in the Colony, while, on the other hand, you insisted on the absence of any such limitation and on a more liberal and comprehensive construction. After a careful consideration of the terms of the Order in Council, I have not been able to discover anything to warrant the view taken of their meaning by the Archdeacon; and I am clearly of opinion that it is open to the Government to consider in what way the produce of these lands may be rendered most conducive to the maintenance and promotion of Religion and Education of Youth in the Colony, without reference to any particular Church. In my despatch of this date, No. 81, I have proceeded on this principle, and I have considered the proceeds of these Lands as part of those general funds, which will be applicable to the plan of Religious Instruction and Education sanctioned in that Despatch. At the same time, I am willing to accede to your suggestion that the proceeds of these Lands should, in the first instance, be applied towards the maintenance of the two Orphan Schools, if, on further reflection, you deem such an appropriation to be expedient.

Appropriation
of proceeds of
lands to support
of all religions
and schools.

Management
of estates.

The question of Management is, to a certain degree, connected with that of Appropriation. As the latter is not to be exclusive, so neither should the former be placed exclusively under the control of persons of any one religious persuasion; nor could I sanction any scheme, which placed the management of these Lands in the hands of a Body resembling the former Corporation. I am far from intending to cast the slightest reflection on the Members of that Corporation. I have no doubt that, individually, they discharged the trust reposed in them with zeal and fidelity; but experience has amply proved that a Body

so constituted is not well adapted for the Office, which devolved upon it. I am disposed to prefer the appointment, according to your suggestion, of a responsible Agent, acting under the authority of the Executive Government, and giving adequate security for the due performance of the duty entrusted to him.

1835.
30 Nov.

Proposed
appointment
of agent.

In your Despatch of the 11th March, 1834, No. 25, you reported that the arrangement for the management of these Lands recommended in your Despatch of the 1st October, 1833, had been provisionally carried into effect, and that you had no reason to suppose that the Government would find any difficulty in the future superintendance of them in the manner and on the principle, which you had suggested. As the result of your experience of this new system since that period will have enabled you to form a correct judgment of its efficiency, I do not feel it necessary to give any further directions upon this point, until I shall have heard again from you upon this subject. I feel it, however, necessary to recall your attention to what appears to have been the intention of my Predecessors in directing the dissolution of the Church and School Corporation.

Provisional
management
of estates.

When Sir George Murray, in his despatch of the 25th May, 1829, to Lieutt. General Darling, first announced that the Corporation was to be dissolved, he informed the Governor that, as soon as that measure should have been carried into effect, it would be desirable that he should proceed to dispose by sale of such portion of the Lands set apart for the use of the Clergy and Schools of the Colony as it should be prudent to part with at once, and which he might conceive would meet with the readiest purchasers, letting on Leases such portion of the remainder as could be advantageously disposed of in that manner. But looking forward to the enhanced value, which such Lands would in a few years attain, as well as to the future necessities of the Colony in regard to its Establishment for Religion and Education, General Darling was directed not to sell more than one fourth of these Lands without further Instructions.

Intentions on
dissolution
of church
and school
corporation.

Lord Ripon,* in a subsequent Despatch of the 14th February, 1831, to General Darling, evidently contemplated the Sale of the whole of these Lands; but I do not find that any express Instruction has ever been given for the sale of more than one fourth of the whole. It is probably for this reason that, in the scheme of management which you have submitted for the consideration of His Majesty's Government, you do not appear to contemplate a Sale of the Lands, but propose a system of leasing, selling only the Flocks and Herds formerly maintained upon them. I see no sufficient ground for adopting a different Rule as to these Lands, from that which now applies to the disposal

Proposal for
lease of lands
and sale of
live stock.

1835.
30 Nov.

Instructions for
sale of lands.

Disposal of
proceeds of
sale.

of all other Land in the Colony. The sale of the whole of these Lands, subject of course to any existing Leases, in the same manner and on the same terms, as the sale of other Lands is conducted, appears to me preferable to the creation of any new Leases. Unless, therefore, any reason occurs to you which, in your judgment, would render such a course inexpedient (and which you will communicate to me) you will sell the reserved Lands, as opportunities offer for an advantageous disposal of them in this mode. The proceeds of such Sales will be paid over to the Colonial Treasury in the same manner and carried to a similar Account as the Rents of the Lands under Lease; and, if any larger sum should be realised than may be required from time to time for the immediate purpose for which the proceeds are applicable, the surplus should be invested in order to meet the demands of future years. By this arrangement the Revenue of the Colony will probably derive the greatest relief, and the expenses of management and superintendance will be eventually saved.

I am, &c.,
GLENELG.

LORD GLENELG TO SIR RICHARD BOURKE.

(Despatch marked "Separate," per ship Henry Tanner.)

Sir, Downing Street, 30th November, 1835.

Transmission
of memorial.

I have the honor to enclose to you a copy of a Memorial, addressed to His Majesty's Government by the Society for promoting Christian Knowledge, on the subject of Religious Instruction in the Colony of New South Wales and its Dependencies, and of my answer to it.

Approval of
objects of
memorial.

His Majesty's Government are deeply sensible of the importance of promoting the great object to which this Memorial refers; and I am well aware that the subject is one, which has engaged much of your attention, and upon which you have addressed several valuable communications to my Predecessors in this Department.

As I have entered at large, in my despatch of this date No. 81, into the views and sentiments of His Majesty's Government on the means to be adopted for the extension of Religious Instruction and Education in the Colony, I do not feel it necessary to do more than to place this Document in your hands, in the assurance that it will receive from you that attention and consideration to which it is, on every account, so justly entitled.

I am, &c.,
GLENELG.

[Enclosure No. 1.]

MEMORIAL Addressed to His Majesty's Government by the
Society for Promoting Christian Knowledge.

1835.
30 Nov.

Memorial from
society for
promoting
Christian
knowledge.

THE Society for Promoting Christian Knowledge begs leave most respectfully to call the attention of His Majesty's Government to the State of the Colony of New South Wales and its dependencies, with regard to Religious Instruction.

The Society is at all times unwilling to do anything, which might seem to interfere with the province of Government; but it feels itself called upon by the urgency of the case to bring the moral and spiritual condition of this Colony under their notice.

The Society begs to represent that, in the whole Colony of New South Wales, there are only eight churches, and so insufficient is the number of Clergy that, in seventeen of the counties, equal in extent to the same number of counties in England, only five chaplains are stationed; and that, notwithstanding the rapid increase of the population, no church has been erected since the year 1821, except one at Port Macquarie, while that station was occupied as a penal settlement. The foundations of a large church* laid by Governor Macquarie in the town of Sydney remain as they were left at his departure, though the number of inhabitants has increased to above 16,000, of whom more than 12,000 are protestant. In the interior, which contains upwards of 30,000 Protestants, a few small temporary buildings have been provided at the expense of the Colony for the celebration of Divine Service; but these are generally appropriated to secular purposes during the week, and there are sixteen districts containing a considerable population, which are destitute even of this miserable provision for Divine Worship. Nearly the whole of these places are without Schools; and, unless some immediate steps are taken to supply this want of education, the mass of the population, which is now so rapidly increasing, will be left to grow up in ignorance and vice.

State of religion
in colony.

The Society begs to call the particular attention of H.M. Govern. to the fact that, of the population of the Australian Colonies, about 40,000 are felons and prisoners of the Crown, who have been convicted and transported from the Mother country, which has thus been relieved to a considerable extent of the vicious and dangerous part of its population.

Number
of convicts.

During the earlier progress of the Colony, considerable expense was incurred by His Majesty's Government in providing means of Religious instruction for the Convicts; but, during the last nine years, nothing whatever has been done nor any expense incurred by the Mother Country to provide for their spiritual wants. And the Society has been informed, upon the Authority of the Archdeacon, that numbers of these unhappy persons are left altogether without the means of Religious instruction or consolation.

Neglect of
religious
instruction
of convicts.

In many part of the Colony, the spiritual destitution of the free Settlers is equally great. Through many extensive districts, they are unable to procure the rites of their Religion. The Sacraments are not administered except at long intervals; Marriage cannot be solemnized without so much difficulty that, notwithstanding every relaxation in point of form, parties are often unable to obtain it, and are living together without its celebration. Many children die

Want of
religious
observance
in country
districts.

* Note 58.

1835.
30 Nov.

unbaptized; and the apprehension of being deprived of Christian burial is found to prevail to a painful extent among the Colonists, who are at a distance from the Stations.

Progress of
vice and
irreligion.

But the worst effect arising from this state of things is the visible decline of Religious Principle, and the Progress of vice and irreligion in the Colony at large.

Funds provided
by society.

The Society, willing to do everything in its power to alleviate these evils, has recently placed a considerable sum at the disposal of the Archdeacon; but it is evident that this sum will do very little towards providing for the exigencies of the Settlers; and it is felt that, in this Colony especially, where there are so many prisoners of the Crown who have been banished from their Country for the public advantage, the Religious instruction of the people ought not to be left to the bounty of Religious Societies or of private individuals.

Request
for reform.

The Society, therefore most earnestly implores His Majesty's Government to take the spiritual condition of the Colony of New South Wales into their serious consideration, and, by the erection of Churches and Schools attached to them, and the appointment of additional Chaplains to place within reach, both of the Colonists and Convicts, the blessings of a christian education and the comforts and consolations of Religion.

SCHEDULE annexed to the Memorial of the Society for Promoting Christian Knowledge.

Chaplains
appointed in
seventeen
counties.

THE following are the details of the statement, made by Archdeacon Broughton, that five clergymen only were stationed and officiating in Seventeen Counties in the Colony of New South Wales.

Name of County.	Protestant Population.	Station of Chaplain.	Name of County.	Protestant Population.	Station of Chaplain.
St. Vincent	365	.....	Northumberland..	3,174	New Castle.
Camden with Illawarra.	1,696	Sutton Forest, Wollongong.	Bathurst	2,404	Kelso.
Murray	327	.....	Roxburgh.....	.....	.....
Argyle	1,736	.....	Hunter.....	.....	.....
King .....	.....	.....	Wellington .....	.....	.....
Georgiana.....	.....	.....	Bligh .....	.....	.....
Westmoreland ..	.....	.....	Phillip .....	.....	.....
Cook	1,079	.....	Brisbane	147	.....
			Durham.....	2,308	Maitland.

Additional Chaplains required in the above Counties.

Chaplains
required.

ONE in Cambden for East and West Bargo with Appin and Manangle.

Two in Argle at Goulburn and Bungonia.

One in Northumberland for Brisbane Water.

One in Durham for Patrick's Plains.

Additional Chaplains are urgently required for the following stations in the county of Cumberland:—

One in Sydney; a population of more than 12,000 Protestants with at present only two Chaplains.

One for Mulgoa and South Creek, where there is a very considerable and increasing population, and service performed only Monthly by the Chaplain of Narellan.

1835.
30 Nov.

Chaplains
required.

One for the town of Richmond, containing about 700 Protestants independently of the adjoining District of Kurrangong now very populous; the town is supplied once every Sunday by the Chaplain from Windsor; but the Kurrangong has no religious attendance excepting on uncertain occasions; and those never on Sunday.

One for Cook's River; on both sides of which there is a large and increasing population, the greater proportion Protestant. It is believed that, if a Church were built, and a clergyman stationed here, a congregation of 300 persons might be assembled. At present, there is a total absence of public worship and of all the Ordinances of religion.

The following Buildings are required.

	Chapel.	School House.	Parsonage.		Chapel.	School House.	Parsonage.
Appin	1	1	1	Paterson	1	1	...
Bathurst.....	...	2	...	Penrith	1	1	...
Bong Bong.....	1	1	...	Richmond	1	...	1
Brisbane Water	1	1	1	Shoalhaven	1	...	...
Bungonia	1	1	1	St. Aubyn	1	...	...
Castle Hill	1	1	...	St. Patricks Plains	1	1	1
Clarence Town	1	...	...	South Creek	1	...	1
Cooks River	1	1	1	Sutton Forest .....	...	...	1
Cornelia	1	...	1	Stone Quarry	1	...	...
Field of Mars.....	...	1	1	Sydney.....	1	2	1
Goulburn	1	1	1	Wilberforce .....	...	1	...
Illawarra.....	1	2	1	Wollombi .....	...	1	...
Maitland.....	...	...	1	Yass Plains.....	...	1	...
Mulgoa	1	1	...		20	21	14

Chapels, school-houses and parsonages required.

[Enclosure No. 2.]

SIR GEORGE GREY TO THE SECRETARY OF THE SOCIETY.

Sir, Downing Street, 2d Decr., 1835.

I am directed by Lord Glenelg to acknowledge the receipt of a Memorial, addressed by the Society for Promoting Christian Knowledge to H.M. Govt., on the state of Religious Instruction in the Colony of N. S. Wales and its Dependencies.

Memorial
acknowledged.

Lord Glenelg is deeply sensible of the importance of the subject to which the Memorial relates, and entirely participates in the feelings of the Society in regard to the inadequacy of the means of Religious instruction, to the wants of the Colonists in the Australian Settlements. The subject has engaged much of Lord Glenelg's attention, and has formed the topic of various communications between H.M. Govt., and the Governor of N. S. Wales.

Inadequacy
of religious
instruction.

There can be no doubt of the necessity of immediate efforts to remedy this Evil, and H.M. Govt. are prepared to act under a sense of that necessity. Lord Glenelg is, however, of opinion that the actual measures, which may be requisite to meet the exigency, can be efficiently or usefully arranged only by the Governor and Legislative Council of the Colony, as the Body to whom matters of

Necessity
for reform.

1835.
30 Nov.

Reference of
memorial to
Sir R. Bourke.

internal Legislation have been in the first instance confided. Lord Glenelg has therefore transmitted to Sir R. Bourke a copy of the Memorial, and feels assured that it will receive from the local Govt. that attention and consideration to which it is so justly entitled on account, as well of the importance of the subject to which it relates, as of the character of the Society from which it proceeds.

I am, &c.,
GEO. GREY.

SIR RICHARD BOURKE TO LORD GLENELG.
(Despatch No. 116, per ship Susanna.)

My Lord,

Government House, 30 Novr., 1835.

Murder of
R. Cunningham
by aborigines.

Referring to my Despatch of the 12 October last, No. 101, in which I stated the probable death of Mr. Richd. Cunningham, the Colonial Botanist, who had wandered from the Exploring Party near the River Bogan on the 17 April last, and had not since been seen, I have now to inform Your Lordship with great regret that I have ascertained, by means of a Party sent out to seek him, that he was murdered by the Black natives soon after his separation from his Companions. The circumstances of the case have not yet been officially reported to me, but will be communicated as soon as received. In the mean time, I have thought it right not to allow the Ship now about to sail to depart without putting Your Ldship. in possession of a fact which, however afflicting, it is due to Mr. Cunningham's Relatives to communicate without delay.

I have, &c.,

RICHD. BOURKE.

LORD GLENELG TO SIR RICHARD BOURKE.
(Despatch No. 83, per ship Strathfieldsaye.)

1 Dec.

Sir,

Downing Street, 1st December, 1835.

Despatch
acknowledged.

I have the honour to acknowledge the receipt of your Despatch No. 45 of the 8th of May last, reporting the arrival of the Ship "Duchess of Northumberland" with 226 Female Emigrants from Cork; and enclosing a Report shewing in what manner each Emigrant had disposed of herself on landing. It has afforded me much satisfaction to receive so high a character of the respectability of the young Women, who have reached the Colony in that Ship; and I trust that their future conduct will be such as to warrant the opinion formed of them by Mr. Riddell. I have directed Copies of your Despatch with its enclosures to be sent to the Emigration Committees in London and

Immigrants per
ship *Duchess of
Northumber-
land.*

Ireland; and, with reference to the circumstance that four of the Emigrants were wives of Convicts, the necessity of excluding women so circumstanced has been pressed on the Committees, especially as they may be sent out, as you justly observe, at the public expence as soon as is consistent with their own welfare.

1835.
1 Dec.

Wives of convicts prohibited as immigrants.

Your remarks, on the impossibility of complying with the Instructions of His Majesty's Government as to an annual report on the career of each Emigrant after the first engagement, are conclusive; and I have therefore to desire that you will confine your Report, as in the present instance, to the mode in which the Emigrants may dispose of themselves on their arrival.

Reports *re* immigrants.

Your reply to the observations contained in Mr. Spring Rice's Despatch of the 1st of November, 1834, referring to the reports current in England at that period, regarding the treatment of the Emigrants on their arrival in New South Wales, is satisfactory. The Home Government, altho' not themselves attaching credit to those reports, yet felt it a duty to bring them under your notice. The refutation, which you have now afforded of them, as well as the explanation which you have given of all the circumstances attending the arrival and domiciliation of the Emigrants in the Colony, until they succeeded in obtaining situations, is so perfectly clear that I cannot but express my entire approbation of all the measures, which you have adopted on this occasion.

Approval of policy *re* immigrants.

I cannot conclude this Despatch without referring to the case (brought under my notice by the Treasury) of Mark Blanchard, an Emigrant who proceeded to New South Wales with the aid of the Government Loan of £20, and in consequence of ill health received your permission to return to England without discharging his debt to the Government. His address was not transmitted, and consequently all attempts to discover him have hitherto proved fruitless. I do not question the propriety of your sanctioning the departure of Mark Blanchard or of any other Person similarly situated; but in future either some responsible Person should be joined in the obligation for repayment, or some means should be pointed out of discovering the Party in this Country. For, altho' the Loans in question have been converted into Bounties, it must be borne in mind that Emigrants, who having been enabled to reach the Colony with its assistance and afterwards return to this Country, do not fulfill the purpose for which the Bounty was granted and are not therefore entitled to benefit by it.

Inability to recover advance from M. Blanchard.

I have, &c.,

GLENELG.

1835.
1 Dec.

SIR RICHARD BOURKE TO LORD GLENELG.

(Despatch marked "Separate," per ship *Susanna*; acknowledged by lord Glenelg, 23rd May, 1836.)

My Lord, Government House, 1 December, 1835.

Referring to my Despatch in which I have made Your Lordship acquainted with the claim of Mr. Justice Burton to be considered the Senior Puisne Judge in the Supreme Court of this Colony, and to that in which I have informed Your Lordship that Chief Justice Forbes does not propose to avail himself at present of the leave he has obtained to return to England for a year, I now beg leave to state that the motive for deferring his departure from the Colony originated solely in the apprehension he entertains that, if he left the Bench whilst the question of precedency between the two puisne Judges remains undecided by paramount authority, some unhappy disagreement might occur to impede the business of the Court. Influenced by this consideration alone, the Chief Justice has sacrificed the prospect of benefit to his own health and that of his Lady, which he hoped to obtain by a timely change of air and occupation. I would, therefore, very respectfully solicit an early adjustment of the pending question of precedency that the Chief Justice may be enabled to seek that temporary remission from professional Toil, which seems necessary for the recovery of his health.

I have, &c.,

RICHD. BOURKE.

SIR RICHARD BOURKE TO LORD GLENELG.

(Despatch No. 117, per ship *Susanna*; acknowledged by lord Glenelg, 2nd June, 1836.)

2 Dec.

My Lord, Government House, 2nd Dec., 1835.

Transmission of
correspondence.

I have the honor to transmit copies of a correspondence, which has passed between this Government and Mr. Riddell the Colonial Treasurer, whom I regret to say I have found it necessary to suspend from the discharge of the duty of an Executive Counsellor.

Suspension of
C. D. Riddell
from executive
council.

Vacancy in
chairmanship
of quarter
sessions.

The facts of the case are briefly these. In the month of August or September last, a prospective vacancy being declared in the Office of Chairman of the Quarter Sessions to which the Justices of the Peace appoint by election under the provisions of a Colonial Law (10 Geo. 4, No. 7), Mr. Riddell waited on me to enquire whether I had any objection to his offering himself as a candidate at the ensuing election. I at once told him that I considered the office he named and that of Treasurer could not be held in conjunction, nor could an Executive Counsellor with propriety become Chairman of the Quarter Sessns. Mr. Riddell

Objections to
C. D. Riddell
as chairman.

appeared to acquiesce in the justice of these observations and left me declaring that he would not offer himself to the Magistrates.

1835.
2 Dec.

About this time, Mr. Therry, Commr. of the Court of Requests, expressed his desire of obtaining the Chairman's office. To his appointment I saw no objection, as the business of Cmmr. led him periodically to the places where Quarter Sessions are held, and there might be some convenience to the Public in having the business of the two Courts transacted at the same time. The Law Officers had proposed such an arrangement, and the Office of Assistant Barrister in Ireland offered an Established Precedent. I therefore informed Mr. Therry that, if the choice of the Justices fell on him, this Government would not object to his holding both offices.

R. Therry
proposed as
candidate for
chairmanship.

Mr. Therry is a Barrister of character and professional ability. During six years that he has held the office of Commr. of the Court of Requests, his proceedings have not been impugned, and he is justly considered a candidate for higher legal appointments. It seems, however, that he has some personal enemies, who exerted themselves to the utmost to oppose his election as Chairman. Some of these Gentlemen, few indeed in number, but Persons of wealth and Magistrates, are amongst those who, friendly to the last, have shewn themselves hostile to the present administration of Colonial affairs. In opposing Mr. Therry, they seemed to aim at the Government and the Election of a Chairman for the Quarter Sessions assumed the appearance of a Party Question. The Government used no influence whatever with the Electors in Mr. Therry's favor, yet his being justly reckoned amongst the warmest and most enlightened supporters of my administration led the Public Journal, which is opposed to it, to represent the Contest as a political struggle.

Abilities of
R. Therry.

Opposition to
R. Therry.

To defeat Mr. Therry, it was necessary to raise up an opposing Candidate; after what I have stated, Your Lordship will hardly imagine that this opponent was Mr. Riddell, the Colonial Treasurer and Member of the Executive Council of this Government. The canvas in his favor was for some time carried on secretly by his friends, but, for some days before the Election, it necessarily became known that he was to stand. In the correspondence now transmitted, Your Lordship will peruse the explanation which Mr. Riddell has attempted to offer for his extraordinary conduct. After its perusal I feel confident your Lordship will recommend to His Majesty that Mr. Riddell be removed from the Executive Council of New South Wales.

C. D. Riddell
as candidate
in opposition
to R. Therry.

Proposed
removal of
C. D. Riddell
from executive
council.

I have, &c.,

RICHD. BOURKE.

1835.
2 Dec.

[Enclosure No. 1.]

MR. C. D. RIDDELL TO SIR RICHARD BOURKE.

Sir,

Sydney, 7 Novemr., 1835.

Explanation by
C. D. Riddell
re candidature
as chairman of
quarter sessions.

I take the liberty of addressing your Excellency upon the subject of the late contest for the Office of Chairman of the Courts of Quarter Sessions.

Your Excellency will no doubt recollect a conversation, which I had with you on this subject, at which to the best of my recollection your Excellency stated it as your opinion that you could not sanction the union of Two offices in this Colony, which you believed would not be confirmed by the Secretary of State. Upon which I stated my readiness to acquiesce in this decision, and that as a matter of course I should take no steps by means of canvassing or otherwise to obtain the Chairmanship.

It is therefore in justice to my own character that I trouble you with this explanation, which is, that I have taken no steps directly or indirectly, neither by canvassing nor sanctioning others to canvas in my name, to bias a single vote at the late election. I have even told many of my friends the result of my conversation with your Excellency, although by so doing I may have gone beyond the bounds of privacy prescribed to a personal interview. Still as I had at one time (before talking over the subject with your Excellency) stated my wish to procure the Office, I thought it but justice to those, who had the power of election, that they should be aware of the situation in which I was placed.

Upon the subject of the election, I shall not say one word, because, if none had voted for me, still, if I had canvassed a single vote after my assurance to your Excellency that I would not do so, I should feel myself unfit to hold the high and responsible Offices which have been bestowed upon me.

With regard to the Chairmanship (if I am elected, of which I am in considerable doubt owing to the irregularity of the Magistrates at Windsor refusing two votes for Mr. Therry, which would have secured his election by that Bench), I beg to resign it in conformity with your Excellency's decision, as being incompatible with my Office as Treasurer, and, if you wish it, publicly to assign my reason for doing so; not having been previously consulted by the Magistrates, I feel perfectly at liberty to resign an Office which I could not hold with the sanction of your Excellency.

I ever am, &c.,
C. D. RIDDELL.

[Enclosure No. 2.]

COLONIAL SECRETARY MACLEAY TO MR. C. D. RIDDELL.

Colonial Secretary's Office,

Sir,

Sydney, 25 November, 1835.

Election of
C. D. Riddell
as chairman.

I am commanded by the Governor to acquaint you that, the Law Officers having on Saturday last reported to His Excellency that in their opinion you have been returned by a Majority of the Benches Chairman of the Quarter Sessions, for the Year commencing the first of January next, you will be so declared in the Gazette of to day.

Necessity for
delay in
resignation.

I am further to inform you that, if you continue disposed to resign the Office according to the communication made to the Governor in your Letter of the 7th Instant, His Excellency has to desire that you will not send in your resignation before the first

day of the next Year. It appears in the opinion of the Law Officers that the Governor has not, under the terms of the late Act of Council, the power of filling up a vacancy in the Office of Chairman which does not occur *within* the Year of Office; nor can another election of the Magistrates be legally resorted to. It might be prejudicial to the Public Service and would be opposed to the Spirit and intention of the Law, if the Quarter Sessions were thus to be left without a chairman for a Year. As your having been put in nomination for the Office (which, it would seem by the Letter above referred to, you did not intend to hold) has created the possibility of this difficulty, it is His Excellency's command that you now do what you can to remove it by abstaining from a premature resignation.

1835.
2 Dec.

Necessity for
delay in
resignation.

In reply to that part of your Letter of the 7th Instant, in which, referring to what passed at an interview with the Governor when it was intimated to you that His Excellency could not sanction the union of the Office of Chairman of the Quarter Sessions with that of Treasurer, you disclaim having canvassed directly or indirectly or sought to bias a single vote at the late election, and state further that you told many of your friends the result of your conversation with His Excellency, thinking it but just that those who had the power of election should be aware of the situation in which you were placed; I am commanded to state as follows. His Excellency finds, by an Extract from the Minutes of Proceedings at the Election, a Copy of which is enclosed, that, in reply to a question put to the Gentleman who nominated you, it was stated that you were aware that you were to be proposed, and would act if elected. You are therefore requested to reply to the following Queries.

Reply to letter.

Consent of
C. D. Riddell
to nomination.

Did you at any time after your interview with the Governor, in which you stated to His Excellency that, in consequence of his objection to the two Offices being held in conjunction, "You would as a matter of course take no steps by means of Canvassing or otherwise to obtain the Chairmanship," authorize or permit any Person to propose you as Chairman, or express your intention of acting if elected?

Queries
submitted
for reply.

Or were you aware at any time after that interview that you would be proposed as Chairman?

And, if aware that you were to be proposed, what Steps did you take to prevent it?

I am further commanded to desire that you will state how it happened that you delayed so long in communicating with the Governor upon a subject, which you state it is due to your character to explain. It was known currently in Sydney two or three days before the day of Election that you were to be put in nomination. It could hardly have been concealed from you on that day, Tuesday, the 3rd November, that you were proposed to, and elected by the Sydney Bench. Yet it is not until Saturday the 7th, the day upon which the result of the Election at Bathurst was made known by Post in Sydney, that your Letter to His Excellency is dated, and an explanation offered which was as much required in justice to your character on the day your Supporters canvassed for you or proposed you, as on the day when the termination of the election was announced.

Upon the foregoing points, His Excellency deems it necessary to seek a full explanation at your earliest convenience.

I have, &c.,

ALEXR. MCLEAY.

1835.
2 Dec.

[Sub-enclosure.]

EXTRACT from the Minutes of Proceedings at the election of a
Chairman of Quarter Sessions at the Police Office, Sydney,
3rd November, 1835.

"MR. JONES was asked whether Mr. Riddell was aware that he was
to be proposed, and Mr. Jones answered that he was, and would act,
if elected."

[Enclosure No. 3.]

MR. C. D. RIDDELL TO COLONIAL SECRETARY MACLEAY.

Sir, Colonial Treasury, Sydney, 26 November, 1835.

In reply to your communication which I received yesterday,
I have the honor to state that I shall obey the commands of the
Governor by again sending in my resignation of the Office of Chair-
man of the Quarter Sessions at the period referred to, viz., "not till
after the 1st of January."

I have now to reply to the questions which have been put to me.

To the first question, I answer that I neither authorized nor
empowered any one to propose me as Chairman, nor did I ever
express my intention of acting if elected. What I have all along
said is, that, if I had not been debarred by the result of the con-
versation with His Excellency the Governor, I would have been a
candidate for the Office, and of course in that case would have
acted if elected.

With regard to the second interrogatory, I did hear on Monday
the day before the election that some of the Magistrates were going
to vote for me as Chairman. But I heard it merely as a rumour;
and, as the Magistrates were quite at liberty to propose any Indi-
vidual of their body who they might consider duly qualified to be
their Chairman, I took no steps to prevent myself from being pro-
posed, and simply because I neither knew who were to put me in
nomination, nor who were to support that nomination.

In reference to the Extract from the Minutes of proceedings at
the election of Chairman of Quarter Sessions, I beg distinctly to
state that I had no communication whatever with Mr. Jones upon
the subject, till after the Sydney election was over.

In answer to that part of your communication respecting the
period at which I wrote to the Governor, viz., the 7th, the election
having taken place on the 3d, I beg to state that I was aware of the
result of the election here on the 3d. But, as the election took place
simultaneously at all the different Benches, and as I could not
foresee what eventually happened, moreover as the fate of the
general election by nominees depended on the result of the Sydney
election, it being also my determination to resign in conformity
with His Excellency's expressed opinions, it will I should hope
appear that it was not in my power to write to His Excellency
declaring my resignation of an Office before it came to my know-
ledge that I was elected to it. The moment the result was known
I wrote. My object in writing so immediately was amongst other
things to give the Governor the earliest opportunity of nominating
some one else, believing, as I did and still do, that the vacancy
thereby made in the Office of Chairman came within the meaning of
the Act of Council as one to be filled up as of course by His Excel-
lency, it having occurred between the days appointed for the election

Consent of
C. D. Riddell
to nomination.

Resignation to
be forwarded by
C. D. Riddell.

Denial of
consent to
nomination.

Prior
knowledge
of proposed
nomination.

Reasons for
delay in writing
letter.

of a Chairman by the Magistrates; and it appeared to me that the sooner it was done the more respectful it would appear to the Governor.

1835.
2 Dec.

I have now, Sir, I think replied in very direct terms to all the peremptory queries which His Excellency has been pleased to put to me through you.

I may be allowed to say a few words upon the tone displayed in your communication. I beg to observe in the first place that His Excellency might have enquired into the truth of the Statements, contained in my Letter of the 7th, before he assumed them to be false, and this upon the strength of a Document, which does not contradict any Statement I have made, although I will allow that at first sight it does appear to impugn them in some degree.

Criticism of
letter from
A. Macleay.

But the Governor could have ascertained beyond a doubt what share I had in the transaction by applying to Mr. Jones himself, than whom a more upright and honorable man does not exist in any part of His Majesty's dominions. Why then rely upon a Document (which I am credibly informed is incorrect in itself), when the most satisfactory evidence of the individual, whose supposed Statement is there referred to, could and can still be obtained.

In the Second place, Sir, a sort of sneer is thrown upon me in the latter part of your communication, which I do not think I deserve. I have already given you very good reasons for not writing to the Governor sooner than the 7th. You add that the explanation given on that day was as much required in justice to my character on the day my supporters canvassed for and proposed me, as on the day when the termination of the election was announced.

In my Letter of the 7th, I disclaimed having had any thing to do with the election at any period of its progress. Had the election terminated in favor of Mr. Therry, I should not have volunteered any explanation to His Excellency upon the subject. But the facts, as I have stated them, would still be the same, and, if His Excellency had thought proper to have called for an explanation of my conduct, the answer would have been the same as I now send. Thus my writing on the 3d or the 7th amounts to the same thing; no new facts are brought to light; my conduct before the 3d cannot be altered by any thing which has occurred since. If therefore I did not write sooner, it is a proof that I was conscious that no injustice could be inflicted on my character by the delay of a few days, more especially when such a delay gave me the advantage of shewing my deference for the decision of the Governor, by enabling me to tender my resignation of an Office which I could not hold with His sanction.

In conclusion, although I am not insensible to the high compliment, which has been paid to me, by having been chosen their Chairman by the Magistrates, and this too without solicitation on my part or the help of any extraneous influence whatever, Still I am bound in honesty to say that I attribute the result of the election much more to the unfavorable light in which Mr. Therry is looked upon by the Magistrates than to any merits of my own. How far Mr. Therry deserves to be viewed in such a light, it is not for me to say. I can only mention the fact as being (to the best of my knowledge and belief) the cause of another being nominated in opposition to him, and of his non-election.

Explanation
of result of
election.

I have, &c.,

C. D. RIDDELL.

1835.
2 Dec.

[Enclosure No. 4.]

COLONIAL SECRETARY MACLEAY TO MR. C. D. RIDDELL.

Colonial Secretary's Office,
Sydney, 1 December, 1835.

Sir,

I have received the Commands of The Governor to acknowledge the receipt of your Letter of the 26 Ultimo, and, before proceeding to reply to that which is most material in its contents, I am desired to notice an ambiguity of expression in the first Paragraph, by which an impression might be conveyed that His Excellency had desired that you should resign the Office of Chairman of Quarter Sessions. This you must be fully aware is not the case. His Excellency neither desires that you shall decline the Office of Chairman nor retain that of Treasurer. At this moment, it is in your power to assume the former. His Excellency does not permit the two to be held in conjunction.

Denial of
request by
Sir R. Bourke
for resignation.

Criticism of
C. D. Riddell
for allowing
his nomination.

But the circumstance in your conduct during the transactions, to which your Letter refers, which the Governor has deemed worthy of consideration, is this. That, having expressed to His Excellency your intention of not offering yourself for the office of Chairman, and appearing as it does from the Correspondence now before him that you had determined not to accept the employment even if elected, you nevertheless permitted yourself to be put in nomination and a contest to be carried on in your name in the several Districts of the Colony without making a clear, distinct and public avowal of your determination not to hold the office. You admit you heard on the day before the election that you were to be put in nomination; it was known to the whole Colony for many days before. Upon your own admission, the clear line of your Duty to the Public and to the Governor was to have gone to the Sydney Bench and informed the assembled Magistrates that you had no intention to hold the Office. But on the contrary you permitted the mockery of an election to be carried on and the Magistrates to be deceived by a declaration from the Gentleman, who proposed you, that if elected you would act.

Admission by
C. D. Riddell of
prior knowledge
of nominator.

These facts being indisputable, His Excellency will not stop to discuss any minor points contained in your Letter, nor notice the indistinct replies to the Queries he directed to be put to you. It is sufficient that you admit, what indeed could never be doubted, that you had knowledge of the intention to propose you at Sydney; and it may be safely assumed that you could not be ignorant that a canvas was carrying on for you in the several Districts of the Colony, of which your simultaneous nomination at all the Benches is ample Proof. You had nevertheless (and for sufficient reason) determined not to serve, though, by abstaining to make any public declaration to that effect, you virtually became a Party to the Canvas and to the whole transaction connected with it. Between this acquiescence and an open participation in the canvas, there is no honest distinction; and yet you profess, in your Letter of the 7th ultimo, that by pursuing the latter course you would have felt yourself "unfitted to hold the high and responsible Offices which have been bestowed upon you." You must have been aware of what all the World knew beside that the intended contest created unusual excitement; that with some Persons the excitement and not the result of the election was the real object; that it fostered and

Public interest
in election.

gave room for the display of much bitter party feeling, injurious to the peace and well being of Society, and opposed to the tranquillizing spirit of the Government of which you are a sworn Counsellor. Your own opinion of the transaction is shewn by your own Statement that, in justice to your character, the part you took required to be explained to the Governor. Yet you wait until the election had terminated before you make any communication on the subject; and I am to remind you that you met His Excellency in Council pending the Return. When your explanation, as it is called, does appear, it only serves to shew that for some undeclared purpose you thought fit to trifle with the Governor and had permitted an irritating and illusory contest to be waged in your name.

1835.
2 Dec.

Character
of action of
C. D. Riddell.

Reviewing the whole of your conduct in these transactions, His Excellency directs me to declare that He can no longer place any reliance on the sincerity of your intentions, any confidence in your advice. You have rendered yourself incapable of affording him any real assistance as an Executive Counsellor. I am, therefore, to inform you that His Excellency has been pleased to suspend you from that Office and will take an early opportunity of communicating with His Majesty's Government on the subject.

Suspension of
C. D. Riddell
as executive
councillor.

I have, &c.,
ALEX. McLEAY.

SIR RICHARD BOURKE TO LORD GLENELG.

(Despatch marked "Separate and Confidential," per ship Susanna; acknowledged by lord Glenelg, 2nd June, 1836.)

My Lord, Government House, 2nd December, 1835.

In my Dispatch of this date No. 117, I informed your Lordship that I have suspended Mr. Riddell's discharge of the duty of an Executive Councillor. This measure of severity was not adopted without regret, but it had become necessary to vindicate the character and authority of the Government. No one in this Colony doubts that Mr. Riddell secretly and insidiously co-operated with those opposed to my administration in an attempt to affront or annoy by exciting an irritating and illusory contest for the office of Chairman of Qr. Sessions. Mr. Riddell has long been known and distinguished as an opponent to the principles, upon wh. I have endeavoured to conduct the affairs of the Colony. In private Society, he has been the open mouth-piece, and, in the transaction which I have brought under Your Lordship's notice, he became the willing Tool of the small but active Party, who are in declared hostility to my administration, uniting himself with a Member of the Legislative Council well known for his factious opposition, and with some of those Gentlemen residing in the Hunter's River District, whose ill-founded Petition* has been lately before the Secretary of State for the Colonies. Such conduct in a Servant of the Government and a

Suspension of
C. D. Riddell
as executive
councillor.

Opinion *re*
action of
C. D. Riddell.

Opposition by
C. D. Riddell
to adminis-
tration of
Sir R. Bourke.

* Note 59.

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2 Dec.

Member of its Privy Council could no longer be tolerated without bringing the Government into contempt, and Your Lordship will, I trust, at once perceive that, after the transaction in which he has been lately engaged, I cannot with due regard for H.M.'s service and my own Honor any longer sit in Council with Mr. Riddell. I hope, therefore, I may be allowed very respectfully to request that, if contrary to my expectation, it shall be thought proper to restore Mr. Riddell to the Council, I may at the same time receive H.M.'s gracious permission to return immediately to Europe.

Resignation of
Sir R. Bourke
if suspension
of C. D. Riddell
not approved.

Nomination of
W. Lithgow
as executive
councillor.

As successor to Mr. Riddell in the Council, I beg leave to submit for Yr. Lordship's consideration the name of Mr. William Lithgow, Auditor General in this Colony. This gentleman has been many years in New South Wales and is thoroughly acquainted with Colonial Affairs. He stood high in the confidence of Governor Sir Thomas Brisbane, being employed as his private Secretary. He is distinguished for general information and liberal principles, and would I have no doubt be found in every way worthy of His Majesty's favor.

I have, &c.,

RICHD. BOURKE.

LORD GLENELG TO SIR RICHARD BOURKE.

(Despatch No. 84, per ship Strathfieldsaye.)

8 Dec.

Sir,

Downing Street, 8th December, 1835.

Despatch
acknowledged.

I have received your Despatch No. 54 of the 22d June last, with which you have transmitted for my information a Return of the cases in which assigned Servants were withdrawn from the Service of the Colonists during the last year.

Withdrawal
of assigned
servants.

With two exceptions, I perceive that the withdrawal of these Convicts took place upon the recommendation of the Magistrates, by whom, I presume, the offences for which the Masters lost their Servants were investigated.

Necessity for
explanations *re*
withdrawals.

In all returns of this nature it is very necessary, to render them of practical use, that a short summary should be given in each case of the grounds on which the power of revoking the Assignment of Convicts was exercised.

In the Return now before me, there are some instances in which the reasons assigned for depriving the parties of their Servants are not sufficiently explained to enable me to form an opinion as to the propriety of the measure. For example, in the cases of Patrick Conlan and Sarah Templeton, it is stated that that they are "Unworthy to have assigned Servants," but the

cause of their disqualification is not mentioned. Again in the case of the Raines, from whom 5 Convicts were withdrawn, it is decided that they are "to be allowed no more servants, the Governor not thinking Mr. and Mrs. R.'s explanation against certain Affidavits satisfactory," but the nature of that transaction is not stated.

1835.
8 Dec.

I have, therefore, to request that you will instruct the Principal Superintendant of Convicts to take care that, in all future Returns, more complete explanations are furnished; at the same time, I must beg you to understand that, in making these observations, it is not my wish to interfere in any way with the discretionary power vested in you of revoking the assignment of Convicts when circumstances may appear to you fully to justify it.

Reports required *re* withdrawal of assigned servants.

I am, &c.,

GLENELG.

LORD GLENELG TO SIR RICHARD BOURKE.
(Despatch No. 85, per ship Strathfieldsaye.)

Sir, Downing Street, 9th December, 1835.

9 Dec.

I have had the honor to receive your Despatch No. 57 of the 25th June, 1835, with which you have forwarded to me 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 was cancelled for want of proper selection in due time under the Regulation on that subject.

Memorial acknowledged from J. Greig.

It appears from Mr. Greig's Memorial that, after completing the preliminary arrangements, his Agent applied to the Surveyor General for the Land at Illawarra; that, from time to time, he called at the General Post Office for the answer from the Surveyor General, which he expected would be sent to him by that channel; but that it was not till nearly the end of 1832 that he received a letter from the Surveyor General, dated *11th Novr., 1830* (almost two years prior to its delivery), informing him (Mr. Greig's Agent) that the Land applied for had been already bespoken, and desiring him to make a fresh selection. Soon after the receipt of this letter, Mr. Greig applied at the Surveyor General's Office, and he was then informed that General Darling's Order had been cancelled, in consequence of inattention to the directions contained in that letter. He then applied to you to renew that Order; but you felt yourself compelled to decline doing so. The last letter from the Colonial Secretary to Mr.

Details *re* claim by J. Greig to land grant.

1835.
9 Dec.

Delay in
submission
of memorial.

Greig upon the subject is stated to have been dated the 25th September, 1833, and his Memorial bears date the 14th November, 1834, nearly 13 months afterwards. The cause of this delay Mr. Greig attributes to a doubt as to the form in which the Memorial should be prepared. I observe, also, by a Memorandum on the back of the Memorial, that it was not received at your Office for transmission to England until June, 1835, about six months after its date.

The only point in this case, which appears to me to constitute the slightest ground of grievance on the part of Mr. Greig, is the alleged delay in delivering to his Agent the decision of the Surveyor General upon his application; but, even admitting that the Government are blameable in this respect (of which, however, there is considerable doubt), it is very remarkable that neither Mr. Greig nor his Agent did, after the lapse of a reasonable time, apply again to the Surveyor General for an answer to the letter. Under all the circumstances of the case, I am of opinion that the utter want of attention, evinced throughout the transaction by Mr. Greig to his own interests, has deprived him of any just claim upon the Government; and you will, therefore, have the goodness to inform him that I cannot sanction his receiving additional Land upon any other terms than those of purchase at Public Auction.

I am, &c.,
GLENELG.

LORD GLENELG TO SIR RICHARD BOURKE.
(Despatch No. 86, per ship Strathfieldsaye.)

10 Dec.

Despatch
acknowledged.

Sir,

Downing Street, 10th December, 1835.

I have the honor to acknowledge the receipt of your despatch No. 53 of the 21st of June last, in which you represent the embarrassment which you have felt, from your not having been placed in possession of the view and wishes of His Majesty's Government on the subject of Trial by Jury.

Explanation
of delay in
instructions *re*
trial by jury.

Although circumstances have hitherto prevented both my Predecessors and myself from conveying to you any definite Instructions upon the subject, it must not on that account be supposed that this important question has been lost sight of. On the contrary, it has received much consideration; but, as the approaching termination of the period,* for which the Act of Parliament for providing for the administration of Justice in New South Wales and Van Dieman's Land is in force, will afford an early opportunity for revising the whole system of Government in both those Colonies, His Majesty's Government have

* Note 60.

deemed it advisable to postpone the final arrangement of the Jury question, and of other points which equally call for adjustment, until the general subject shall be brought forward.

1835.
10 Dec.

Under these circumstances, I need scarcely state that His Majesty's Government entirely approve of your having proposed to the Legislative Council to extend the duration* of the Jury Act in its present form.

Approval of extension of jury act.

I am, &c.,
GLENELG.

LORD GLENELG TO SIR RICHARD BOURKE.

(Despatch No. 87, per ship Strathfieldsaye.)

Sir, Downing Street, 13th Decr., 1835.

13 Dec.

I have had under my consideration your Dispatch No. 55 of the 23rd June, 1835, with which you have forwarded a Memorial addressed to you by a large number of the most respectable Inhabitants of New South Wales, soliciting your recommendation of Mr. C. F. Sheppard to His Majesty's Government for a Grant of Land in consideration of the desperate resistance, which he offered to an attack upon the property of his Employer, which was made by an armed party of runaway Convicts.

Memorial acknowledged from C. F. Sheppard.

Taking into consideration the general character of the laboring population of New South Wales, and the extent to which the property of the Colonists is exposed to depredation, I think there cannot be a question as to the expediency of giving to Servants due encouragement to exert themselves in the protection of property committed to their custody. The most effectual method of creating in that Class of persons the disposition to discharge the trust, reposed in them with fidelity under trying circumstances, would doubtless be for the Government occasionally to sanction a departure from ordinary regulations, in order to mark its sense of meritorious conduct. This, however, should only be done in very extraordinary instances and after a careful investigation of the circumstances attending each case. Neither in your Dispatch nor in the Memorial are the particulars given of the affair, in which Mr. Sheppard was engaged; but, from the circumstances† which are stated in evidence on the Trial as reported in the Public Journals, I feel no difficulty in coming to the conclusion that this is a fit occasion for the exercise of the liberality of the Government, and I have much pleasure in authorizing you to grant to Mr. Sheppard a remission in the purchase of Land of £150.

Policy of rewarding servants for protection of property of employers.

Remission in purchase of land granted to C. F. Sheppard.

I am, &c.,
GLENELG.

* Note 60.

† Note 61.

1835.
18 Dec.

SIR RICHARD BOURKE TO LORD GLENELG.

(Despatch No. 119, per ship Hercules; acknowledged by
lord Glenelg, 21st October, 1836.)

My Lord, Government House, 18 Decr., 1835.

Address by
W. W. Burton
to jury on
discharge.

In the Colonial Newspaper of which I send a number, your Lordship will find a full and, I believe, accurate Report* of an address delivered by Mr. Justice Burton to a petit Jury, on discharging them from attendance at the close of the last Criminal Session of the Supreme Court. As this address may possibly be thought to insinuate that due means are not employed by this Government for the prevention and punishment of Crime, and, as I perceive by the public press that this interpretation is sought to be put upon it by the Party in the Colony opposed to my administration, who, I understand, intend to call your Lordship's attention to it as affording proof of the justice of their complaints, I think it right to submit a few observations on those parts of the address which have been thus interpreted. I do not indeed imagine that Mr. Burton intended all that has been attributed to him by those, who have perverted his language to party purposes. Yet, as his address has been open to misrepresentation, and the Judge has been said to cast blame upon the Government for the unhappy condition in which he has described the Colony, it becomes necessary that I should endeavor to obviate the effect of such misrepresentation.

Misinterpreta-
tion of address.

Remarks by
W. W. Burton
re prevalence of
crime.

A large portion of the address is taken up with general expressions of concern at the prevalence of crime in New South Wales. In Mr. Burton's feelings on this subject, no virtuous or benevolent Person can fail to sympathize; but, if he be a Person of reflection as well as feeling, he cannot be surprised at such a state of morals, or at the want of a religious spirit in a community constituted as this is. The materials, of which it has been chiefly formed, and by which it is recruited, are too well known to your Lordship to require further remark. The mere existence of a large proportion of crime in a penal Colony can form no just charge against its Government. Mr. Burton probably does not mean to impute it. Yet his general expressions have been regarded or represented as accusations by unthinking or malicious persons. Nor does Mr. Burton assert that crime encreases in the Colony beyond the proportion of its rapidly augmenting numbers. His statements shew directly the reverse. Of the Capital convictions, which he enumerates for three years, those of 1835 are the lowest in number. But, in representing to the Jury the degraded state of the Colony, Mr. Burton dwells upon

* Note 62.

certain evils in terms which may seem to point at mal-administration as the cause of their existence or continuance. The principal matters which he specifies are:

1. Deficiency of religious Instruction;
2. The State of the Road Parties;
3. The occupation of Waste Lands by unauthorised and improper Persons;
4. The granting of Licenses for Public Houses to improper persons.

1835.
18 Dec.
Defects in
administration
alleged by
W. W. Burton.

To which he adds, as an evil of great magnitude, the want of due care by Masters of their Convict Servants.

The Records of Your Lordship's office will shew that none of these matters have been overlooked by the Colonial Government. Some of them form the subject of repeated communications to the Secretary of State, and, in considering them separately, I think it will be found that none affords any ground of charge against my administration.

1. With regard to religious instruction, the proposals, I have submitted to H.M.'s Government on this subject, rendered difficult as it is by the diversity of Creeds among the Population, will, I trust, exculpate me from all charge of indifference in so important a matter. Nor can it be truly said that a provision for religious instruction has been neglected in N. S. Wales. The large sums voted annually for clergy and Schools witness to the contrary, and more particularly within the last three years, during which considerable additions have been made to the Ministers of the Scots Church, and to the Roman Catholic Clergy, supported wholly or in part by public funds; whilst facilities have been given to Dissenters of various persuasions by Grants of Land, on which to erect their Places of Worship. With regard to the particular instance of want of religious instruction referred to by Mr. Burton, namely, the absence of a chaplain at Norfolk Island, Your Lordship cannot but be aware (and Mr. Burton had indeed been informed) of the earnest and repeated applications I have made to H.M.'s Government for the supply of this deficiency. I will add in this place that I hope shortly to find that deficiency provided for by Your Lordship's appointment of both a Protestant and Catholic Chaplain for the service of Norfolk Island.

Attention to
necessity for
religious
instruction by
Sir R. Bourke.

Want of
chaplain at
Norfolk island.

Upon the second head, the state of the Road Parties, I beg leave to refer Your Lordship to my Despatch of the 15 Janry., 1834, No. 1, for a full account of the formation and circumstances of these Parties. I will here briefly observe that, of the two grand divisions of Convicts employed in public works, namely

Management
of road parties.

1835.
18 Dec.

Management
of road parties.

those laboring in Irons and those without Irons, the latter have always been the most difficult to manage. They are for the most part idle, worthless thieves, rejected by the Settlers, yet not so openly criminal as to be sentenced to Irons or Transportation to Norfolk Island. Nor does the Colony afford means to immure them or to watch them so narrowly as to prevent their occasional depredations. But they are not permitted to go about at large as Mr. Burton would seem to state, and, when they break from their gangs and commit serious offences, they seldom escape condign punishment. Of the Persons particularly referred to by Mr. Burton, one has been executed and four sentenced to work in Irons at Norfolk Island for Life. By late arrangements, these Parties have been diminished in number and will if possible be still further reduced; nor can I discover that they have been worse managed or are more criminal within the last three years to which Mr. Burton refers than formerly. The contrary I believe to be the fact. Their labor on the roads has been useful, and, were they all banished to Norfolk Island, their absence would probably be regretted, as the cry for good roads is as loud and more general than the clamor of a certain Party in the Colony against disorderly and dishonest Convicts. No complaint is made by Mr. Burton of the Ironed Gangs. Since the addition of a Regiment to this command, I have been enabled to place those Gangs under proper control, and to exhibit the advantage in the improvement of the distant County Roads, and in the Streets of Sydney.

Unauthorised
occupation of
waste lands.

Another cause to which Mr. Burton attributes the prevalence of Crime in this Colony is the occupation of Waste Lands by unauthorised and improper Persons. To state this complaint in general terms is far easier than to grapple with the difficulties which beset the subject, and to suggest an appropriate remedy. The Persons to whom Mr. Burton alludes, familiarly called *Squatters*,* are the objects of great animosity on the part of the wealthier Settlers. As regards, however, the unauthorized occupation of Waste Lands, it must be confessed that these Squatters are only following in the steps of all the most influential and unexceptionable Colonists, whose Cattle and Sheep Stations are everywhere to be found side by side with those of the obnoxious Squatter, and held by no better Title. This being the case, it is evident that no partial regulation can with propriety be introduced; and I find it extremely difficult to devise any plan that will satisfactorily meet the circumstances of both the classes I have mentioned.

The subject is nevertheless under my serious consideration, and I trust I shall be able to adopt some measure that may

* Note 63.

moderate the evil complained of without putting a weapon into the hands of selfishness or oppression. I had been in frequent consultation with Mr. Burton on the subject before his delivery of the address under observation, and I hope to make a project submitted by him the groundwork of a Regulation or Act of Council adapted to the necessity of the case. I have already informed your Lordship (in my Despatch of the 10th October last, No. 99) of my intention to avail myself, if possible, of the opportunity this question presents, for obtaining such recognition of the Title of the Crown from all occupiers of waste Lands as will prevent any difficulty in their future resumption by ordinary legal process. The most desirable plan appears to be to let or license the land at a small rent. My chief difficulty is a fear, I cannot but entertain, lest even those wealthier Settlers, who are most loud in their complaints of the Squatter, should prefer their present unauthorised Title to a Lawful one acquired even at the smallest expence. If the more respectable Class should come forward voluntarily, it might be comparatively easy through them to compel the rest, or to take measures for ejecting the defaulters. But it cannot be disguised that to attempt enforcing any system against the general will would be no less a hopeless than an ungracious task.

1835.
18 Dec.

System proposed re occupation of waste lands.

Possible opposition to system.

With regard to the permission of improper Persons to keep Public Houses, it must fully exculpate this Government to state that, by the existing Law, the licensing of these Houses is left wholly to the Magistrates of each District. I am not, however, prepared to unite readily with Mr. Burton in charging the Magistrates with neglecting the public interests in this matter. The frequent rejection of applications for licenses would inevitably lead to the illicit sale of Spirits, and the evils attending this practice are far more difficult to detect and punish than those which can exist in licensed Houses, open to Magistrates and Constables at all Hours of the Day and Night.

Issue of licenses for public-houses.

The absence of due restraint over Convict Servants on the part of their Masters is the last circumstance adverted to by Mr. Burton, which may call for some remark. This evil is not attributable to any fault in the Regulations of the Government. If the offences of the Servants are found to result from any gross neglect on the part of the Master, not only the offending, but all his other servants are at once removed. But to endeavor to prevent the occasional outbreaks of Crime among assigned Servants by requiring every master to act the part of a Gaoler towards them, in the manner Mr. Burton appears to contemplate, would be at once an impolitic and fruitless attempt. To enforce

Want of control by masters over assigned servants.

1835.
18 Dec.

effectually any such regulation would be impossible so long as the Convicts are employed in the various pursuits and under the various circumstances in which their labor is made available for their Master's benefit. A degree of liberty superior to that of a Gaol or Penitentiary is essentially incident to the system of this Colony, and the evil and the good of this partial freedom must of necessity grow up together.

Criticism of
opinions of
W. W. Burton.

In conclusion, I may be allowed to express an opinion that, in no point of view, does this Colony present the unhappy spectacle which Mr. Burton holds up. However prevalent crime may be, it is not more so in proportion to numbers than formerly, nor so much so as might naturally have been expected among a population chiefly consisting of the Criminal outcasts of another Country. In the mean time, Agriculture and Commerce are advancing, and every year is placing out of the reach of ordinary Temptations, and in the ranks of those interested in maintaining the rights of property, many who commenced Life in their systematic violation. I regret much that Mr. Burton should have thought it necessary to put forth an address which dwells upon, and even exaggerates, evils from which none could expect a penal Colony to escape, while it suppresses all mention of the numerous causes for congratulation everywhere apparent. It has served in a way, which I am persuaded Mr. Burton never intended, to encourage the clamor of those inconsistent Persons, who have attained to wealth by the service of Convicts, who, up to the present moment, are emulating each other in frequent and urgent application for more Convict Servants; who are continually travelling to their farms and remote Stations over roads of great length and difficult construction, wholly formed by the labor of Convicts; yet spend their lives in cavilling at the evils by which these advantages are inevitably accompanied, and charge them on the Government.

Result of
address by
W. W. Burton.

I have, &c.,

RICHD. BOURKE.

[Enclosure.]

[*This was a copy of the issue of the "Monitor" newspaper, dated 21st November, 1835.*]

SIR RICHARD BOURKE TO LORD GLENELG.

(Despatch No. 120, per ship Hercules.)

20 Dec.

My Lord,

Government House, 20 Decr., 1835.

Wreck of
ship *Hive*.

I have the honor to report to your Lordship that the Ship *Hive*, bound from Ireland to this Port with Male Convicts, was run ashore* on this Coast to the southward near Jervis Bay on

* Note 64.

the night of the 10th instant. Immediately on the intelligence reaching me, every available assistance was despatched including that of H.M. Ship Zebra, under the command of Captn. McRae, who had arrived here a few days previously. The Guard, crew (with the exception of the Boatswain who was unfortunately drowned) and prisoners have all been saved, as have the public Stores and £10,000 in specie for the Military Chest. When the vessel was last heard of every effort was making to get her off, but up to that time without success.

1835.
20 Dec.

Crew, convicts,
stores and
specie saved.

I propose to make strict enquiry into the cause of the disaster, and the particulars shall be fully reported to Your Lordship.

I have, &c.,

RICHD. BOURKE.

LORD GLENELG TO SIR RICHARD BOURKE.

(Despatch No. 88, per ship Strathfieldsaye; acknowledged by Sir Richard Bourke, 18th June, 1836.)

Sir,

Downing Street, 21st December, 1835.

21 Dec.

In my Dispatch No. 81 of the 30th Ultimo, I intimated that His Majesty's Government had acceded to your recommendation of erecting the Archdeaconry of New South Wales into a Bishoprick, and that His Majesty had been graciously pleased to nominate Mr. Broughton to the new See.

Erection of
bishopric.

I have now the pleasure of acquainting you that Mr. Broughton will shortly be consecrated and will return to the Colony to assume the duties of the Episcopal Office with the Title of Bishop of Australia, and as a Suffragan of the Archbishop of Canterbury.

W. G. Broughton
to return as
bishop of
Australia.

This arrangement has been carried into effect, solely for the purpose of remedying the inconvenience arising from the necessity of an Appeal in certain cases to the Bishop of Calcutta, and of enabling the Head of the Church of England within the Australian Colonies to exercise that immediate and effective control over the Clergy of that Church, which is so essential for the maintenance of discipline and good order.

Reasons for
erection of
bishopric.

The office of Archdeacon is to merge in the higher Office of Bishop. The Bishop is to hold the same rank in the Council as he now holds as Archdeacon, and is, in other respects, to stand precisely in the same position as the Archdeacon has hitherto stood excepting in regard to those Ecclesiastical powers the extent of which will be defined in his Patent.

Status
of bishop.

As Mr. Broughton will derive no additional Emolument from this change, I have thought it right to relieve him from those charges which on a fair calculation may be considered necessarily connected with the constitution of the Bishoprick.

Remission
of charges.

1835.
21 Dec.

Fees remitted
and allowance
for passage
money.

On this principle, he will be exonerated from the payment of the Fees chargeable on the Letters Patent creating the Bishoprick and from the further expenses attending his consecration, etc.; I have also agreed to allow him the sum of £600 on account of his expenses in coming to this Country and returning to the Colony, as, under any circumstances, it would have been necessary for him to have come home for Consecration. These charges will, it is calculated, amount to between £1,300 and £1,400 and will be defrayed by the Colonial Agent out of that moiety of Mr. Broughton's Salary, which, although included of course in the full Salary voted to him during his absence, he is not, according to the general rule regulating the Salaries of absent Officers, entitled to receive. During the whole period of his absence, he will be entitled to half his Salary, whether as Archdeacon or as Bishop.

I am, &c.,
GLENELG.

SIR RICHARD BOURKE TO LORD GLENELG.

(Despatch No. 121, per ship Hercules; acknowledged by lord Glenelg, 18th June, 1836.)

My Lord, Government House, 21 Decr., 1835.

Referring to my Despatch of the 10th October last, No. 99, with which I submitted for your Lordship's Commands the particulars of a Settlement commenced by Mr. John Batman and others upon part of the South Coast of this Continent, as detailed in a correspondence between that Gentleman and the local Government of Van Diemen's Land, I have now the honor to transmit the Copy of a Letter from Colonel Arthur transmitting an application from Mr. Batman for assistance and protection from the Colonial Authorities pending the decision of H.M.'s Government upon his application to retain the Land. Your Lordship will perceive how fully Mr. Batman's Letter corroborates the opinion I ventured to express in the Despatch before referred to as to the impossibility of maintaining peace and order in the proposed Establishment without the assistance of a Civil or Military Force.

Considering, however, that Mr. Batman's occupation is wholly unauthorized, and having reference to the instruction received from the Earl of Aberdeen (in His Lordship's Despatch of the 25th December, 1834) to discontinue every undertaking having a tendency to disperse the population of the Colony, I do not feel myself at liberty to extend to these adventurers even that degree of assistance, which Colonel Arthur appears inclined to concede, without the direct permission of His Majesty's Government. Having consulted the Executive Council, I find their view of the

Request by
J. Batman for
assistance and
protection at
Port Phillip.

Inability to
grant request.

case to coincide with my own, as your Lordship will perceive by the Extract of Proceedings transmitted herewith.

1835.
21 Dec.

I have accordingly informed Colonel Arthur to this effect, and have now only to await Your Lordship's commands upon the whole question as submitted in my former and present Despatch.

Inability to grant request.

I have, &c.,

RICHD. BOURKE.

[Enclosures.]

[Copies of these papers will be found in a volume in series III.]

LORD GLENELG TO SIR RICHARD BOURKE.

(A circular despatch per ship Strathfieldsaye.)

Sir,

Downing Street, 22 December, 1835.

22 Dec.

I have the honor to transmit to you an Extract from a Treasury Minute, dated the 13th October last, calling for certain Returns of Pensions, etc.; and I am to desire that you will supply me with the information required, so far as the colony under your Government is concerned, at your earliest convenience; and also transmit the same annually to me in the Months of November for the purpose of being laid before Parliament.

Returns of pensions, etc., required.

I have, &c.,

[Enclosure.]

GLENELG.

EXTRACT OF TREASURY MINUTE DATED 13TH OCTOBER, 1835.

"My Lords have under their consideration the Resolutions of the Committee of last Session on Sinecure Offices, on the subject of the grant of retired Allowances on the abolition or reduction of Office, and the Accounts to be laid before Parliament, viz.":

"2nd. That there be annually laid before Parliament a Return for the preceding year of all Retired Allowances, upon Abolition and Reduction of Office; specifying the total amount at the beginning of the year, the diminution occasioned by death or otherwise, the addition made during the past year, the Age and length of Service of each Party so added, and the saving of Establishment which shall have been made in each such Case."

"My Lords entirely concur in the recommendations of the Committee, and will act upon them in all cases of Retirement upon Abolition or reduction of Office."

SIR RICHARD BOURKE TO LORD GLENELG.

(Despatch No. 122, per ship Hercules.)

My Lord,

Government House, 22 Decr., 1835.

Referring to my Despatch of the 12 October last, No. 101, and 30 ulto., No. 116, I have now the honor to transmit a Copy of the Report received from the Officer in Command of the Party directed to proceed towards the spot* where the late Mr.

Transmission of report from H. Zouch.

* Note 65.

1835.
22 Dec.

Apprehension
of murderers of
R. Cunningham.

Cunningham was last heard of, in order to ascertain his fate. The general effect of the melancholy disclosure, the Report contains, has already been communicated. It will be perceived from the detail now forwarded that three of the Blacks, who were charged with the murder, were apprehended, but that two of them have since escaped through the fault of a non-commissioned officer belonging to the Party. The other is still in custody, but I fear that it will be impossible to obtain such evidence as will legally substantiate his guilt. The case is, however, in the hands of the Law Officers.

The soldier, through whose negligence the escape of the others took place, will be brought to a Court-Martial.

I have, &c.,

RICHD. BOURKE.

[Enclosure.]

LIEUTENANT ZOUCH TO CAPTAIN WILLIAMS.

Sir,

Bathurst, 7 December, 1835.

Report by
H. Zouch *re*
murder of
R. Cunningham
by aborigines.

I have the honor to state that, in conformity with the Instructions Contained in the Colonial Secretary's letter of the 16th October, together with your orders directing me to proceed to the Interior for the purpose of ascertaining the fate of Mr. Cunningham, I proceeded with the party on the 24th October from Bathurst for Borea, which place I left on the 29th, accompanied by Sandy (the Black Native mentioned in my Instructions). On the 2d November, I fortunately met with two Blacks, who knew the particulars of a Whiteman having been murdered on the Bogan, also the names and persons of the perpetrators of the deed; they likewise offered to accompany the Police to where the Tribe, to which the Murderers belonged, was encamped. I accordingly took them on as guides, and, on the evening of the 6th, they informed me that they could see the Smoke from fires of the Myall Blacks, On the borders of a Lake called Budda. On arriving on the banks of the Lake, we found a Tribe encamped, consisting of upwards of 40 Men, Women and Children, all of whom we succeeded in making Prisoners, without any resistance on their part. Having questioned them as to the Murder of a Whiteman, they acknowledged to one having been killed on the Bogan by four of their Tribe, three of whom they delivered up (the fourth they Stated was absent on the Big River). On searching the bags of the Tribe, we found a knife, a glove, and part of a Cigar case, which the three Blacks acknowledged they had taken from the Whiteman, and which Muirhead said he was sure belonged to Mr. Cunningham.

The three Murderers, whose Names are Wongaagegery, Boreeboomalee and Bureemall, stated that they and another Black about Six Moons ago met a Whiteman on the Bogan, who came up to them and made signs that he was hungry, that they gave him food, and that he encamped with them that night. The Whiteman, repeatedly getting up during the night, excited suspicion, and they determined to destroy him the following Morning, which they did by Wongadgery going unperceived behind him, and striking him on the back of the head with a Nulla Nulla; the other three then rushing upon him with their weapons speedily effected their purpose.

I then determined to proceed to the spot where the Murder was Committed, which I was informed by the Blacks was distant three days' journey; but, learning from them that there was a great scarcity of Water, I deemed it advisable to take only a small party, consisting of three Troopers and Muirhead and one of the Prisoners (Burremall) a guide across to the Bogau, leaving the remainder of the Party, having the other two Prisoners in charge, under the Command of Corporal Moore to proceed to a station about 30 Miles distant from Wellington, there to await my return.

On Tuesday the 10th, I arrived at a place called Carrindine, where the Black Showed me some bones which he said were those of a Whiteman they had killed, and pointed out a Small portion of a Coat and also of a Manilla hat. Being thus convinced of the truth of their statement and also of the Spot where the Melancholy event had occurred, I collected all the remains I could discover and having deposited them in the ground, raised a small Mound over them, and barked some of the nearest trees as the only means in my power of marking the Spot.

Having thus accomplished the object of the Expedition, I proceeded on my return, and, on rejoining the Party under Corporal Moore, I learned the escape of the two Prisoners, which took place on the night of the 11th October, when Trooper Leard was on Sentry, against whom I have forwarded a charge of neglect of duty. The fulfilment of my Instructions being thus partially defeated, I considered it my duty to proceed in Search of the runaways and continued the pursuit, I regret to say, without success, until I was obliged to return, our Stock of provisions being consumed.

I arrived here with the Party yesterday, and Shall forward the Prisoner Burremall to Sydney, together with the articles I was enabled to collect, Supposed to have belonged to the late Mr. Cunningham.

I have, &c.,

H. ZOUCH, Lt., Mounted Police.

1835.
22 Dec.

Report by
H. Zouch re
murder of
R. Cunningham
by aborigines.

SIR RICHARD BOURKE TO LORD GLENELG.

(Despatch No. 123, per ship Hercules; acknowledged by lord Glenelg, 14th August, 1836.)

My Lord, Government House, 23rd December, 1835.

23 Dec.

By the Enclosed Statement and the accompanying Documents Your Lordship will perceive that three Convicts, whose Conditional Pardons have been recently authorised, have proved themselves unworthy of the Indulgence during the interval between transmission of the Pardons to England and the receipt of H.M.'s gracious allowance in this Colony.

Suspension of
conditional
pardons
authorised
for convicts.

Under these circumstances, I have thought it right to decline issuing the Pardons or advertising their Allowance, unless otherwise instructed by H.M.'s Government. Should it notwithstanding appear that they have taken irrevocable effect by virtue of the Statute 9 Geo. 4, c. 83, s. 40, I would respectfully suggest the propriety of a different provision being introduced into any new Law that may be submitted to Parliament on the Expiration of the present one.

1835.
23 Dec.

It is too often the case, as asserted in one of the Enclosed Documents, that "apparently well behaved persons prior to having obtained a recommendation for a Conditional Pardon, immediately on getting the Indulgence, become troublesome and dissolute characters."

Necessity for
modification of
conditions *re*
tickets of leave.

I have had occasion before to represent this circumstance as a reason for desiring that the revocable Indulgence of a Ticket of Leave should convey a complete restoration of all the privileges of a free subject during good behaviour, thereby diminishing both the anxiety to obtain and the inducement freely to bestow an irreversible Pardon.

The Law, which deprives of the rights of Property the holders of revocable Indulgences, seriously interferes with the Efforts of this Government to restore reformed Convicts to Society without danger of permanent mischief from those whose reformation is only temporary or pretended.

I have, &c.,

RICHD. BOURKE.

LORD GLENELG TO SIR RICHARD BOURKE.
(Despatch No. 89, per ship Strathfieldsaye.)

24 Dec.

Sir,

Downing Street, 24th December, 1835.

Transmission
of letter from
L. M. Foster.

I transmit to you a copy of a Letter which I have received from Miss L. Foster. Although she describes her Father as residing in Van Diemen's Land, there seems to be every probability that he is the person stated in the Blue Book for your Government for the year 1833 (the latest which has reached this Department) as holding the Appointment of Superintendent of the Ironed Gang at Newcastle.

Miss Foster has been informed that it is not in my power to exercise any direct interference in her behalf; but I have thought it right to transmit her Application to you, in order that Mr. Foster may be made fully aware of the condition in which his family is living.

I am, &c.,

GLENELG.

[Enclosure.]

MISS FOSTER TO LORD GLENELG.

May it please your Lordship,

Leicester, 23 Decr., 1835.

Mr. Wm. Foster (my Father) left England in July, 1832, for Van D. Land, strongly recommended to the notice of His Excellency the Govr., and promised to send us a sum sufficient to enable us to follow, when he should obtain an appointment. A letter, dated Jany. 22d, 1833, informed us that he was Superintendent at Newcastle, Van D. Land, at a Salary of £100 per ann. exclusive of rations and a house. Another dated from the same place, May 8th, 1833, promised us a pound a week; but I am sorry to say that all these engagements are yet unfulfilled, and that, as my father was

Emigration
of W. Foster
from England.

1835.
24 Dec.

Request for allowance from income of father.

formerly an officer in the Army, and we have moved in a very respectable sphere of life, the want of that assistance, which he could well spare, is painfully felt by us. My Lord, by the plural, I mean my Mother, myself and a very young sister. Your Lordship will be at no loss to perceive that my object is to know whether my Father is yet alive, and, if so, to request that some portion of his Income might be appropriated to us. My Lord, your early and favorable attention to this my importunate request will for ever be remembered with the deepest gratitude by your Lordship's most obedt. servant,

LOUISA MARIA FOSTER.

SIR RICHARD BOURKE TO LORD GLENELG.

(Despatch No. 124, per ship Hercules; acknowledged by lord Glenelg, 25th November, 1836.)

My Lord, Government House, 24 Decr., 1835.

Agreeably to the provisions of the Statute 9 Geo. 4, c. 83, I have the honor to forward for H.M.'s gracious allowance 19 acts passed by the Legisl. Council of this Colony during the present year. A printed copy of these Acts* is at the same time transmitted for your Lordship's more convenient reference in connection with the following concise statement of the objects with which they were severally passed.

Submission of acts of council for approval.

5 Wm. 4, No. 21. The necessity of appointing Commrs. to investigate claims to grants of Land has been fully shewn in forwarding the Acts of the last and preceding year. The Commrs. appointed under the previous acts have disposed of the greater No. of these outstanding claims, having reported on more than seven hundred cases submitted to them by the Memorial of the Parties interested. The present Act retains the services of Commrs. for the purpose only of investigating cases referred to them by the Governor. This will not require their continual employment as formerly. The future expence of this service will in all probability be very inconsiderable.

Act re duties of commissioners of court of claims;

5 Gul. IV, No. 22. This act was passed to avoid the repetition in every act bestowing summary powers upon Justices of the Peace of the usual clauses regulating the exercise of those powers. Being comprised in a distinct act, they are rendered more uniform and intelligible, without interfering, however, with any special provisions which it may be found desirable to introduce in particular cases.

re summary jurisdiction of magistrates;

5 Gul. IV, No. 23. This act was passed under authority of the Statute 4 and 5 Wm. 4, c. 65, in order to facilitate the holding of a Criminal Court at Norfolk Island. It cannot be necessary here to recapitulate the circumstances calling for this measure. It will be sufficient to refer to my Despatch of the 30th November,

and re criminal court at Norfolk island.

* Note 66.

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24 Dec.

1833 (No. 110), the statements of which led to the passing of the Statute which forms the ground work of the Colonial Ordinance now transmitted.

Act re
conveyance
and postage
of letters, etc.

5 Gul. 4, No. 24. The former Post-Office Act, which was passed in the time of Sir Thomas Brisbane, appearing to require revision in several particulars and extension in others, I was induced to submit a new Bill to the Council for the Regulation of this Department. The principal change in the Law is the admission of English and Foreign Newspapers and the Circulation of Colonial by the post within seven days after publication, free of charge. The provisions regarding Patterns of Merchandize and several other clauses of English Post-Office acts have likewise been introduced. I cannot refrain to remark, however, that I was defeated in one of the principal objects which I contemplated in the New Law. Great abuses, by which the Revenue seriously suffered, were represented by the Post-Master-General to be prevalent in the franking of Letters by public-Officers. This was occasioned chiefly by the loose wording of the former Act, which contained no provision requiring even a statement, on the part of the Officer franking, that the letter was on public service. The clauses in the Bill introduced by me which proposed a stricter rule, copied from an Act lately passed in Van Diemen's Land, were violently opposed by the Colonial Secretary. Others followed his example, and the result was that I found it expedient to leave the Act to be altered according to the pleasure of the Council. The privilege of franking was accordingly augmented, and left as open to abuse, and is I apprehend as much abused as formerly. I would not wish, however, to propose any change in the Law to the present Council. The Legislative Body, which will be formed under a new act of Parliament for New South Wales upon the approaching Expiration of that now in force, will probably take a different view of the subject.

Free carriage
of newspapers.

Franking of
letters by
public officers.

Extension
of jury act.

5 Wm. 4, No. 25. The circumstances, under which this Act has been continued until the month of June, 1836, have been already represented in my Despatch of the 21 June last, No. 53, an answer to which and to my frequent previous communications on the same subject I earnestly hope to receive before I shall be again obliged to agitate this question in the Council.

Act for
regulation
of baking.

6 Wm. 4, No. 1. The preamble of this act sufficiently states its object, vizt., "to regulate the making and sale of bread, and to prevent the adulteration of meal and flour, and frauds on the public in selling bread which is deficient of its due weight."

It establishes no assize, nor does it in any degree interfere with the competition of trade; providing only for the detection and punishment of actual frauds with regard to ingredients or weight.

- 6 Wm. 4, No. 2. This Act adopts those of the English Regulations with regard to Stage Carriages, which appeared most likely to be useful in New South Wales. 1835.
24 Dec.
- 6 Wm. 4, No. 3. I have already stated the circumstances under which this act was passed in my Despatch of the 18th August last, No. 82, with which I have transmitted Bills to the amount of £50,000 drawn by the Deputy-Commy. Genl. on the British Treasury on accounts of a former loan to the Military Chest to a like amount. State carriage act.
Act *re* loan to military chest.
- 6 Wm. 4, No. 4. This Act was called for by the expiration of the former Dog act, which has been renewed with considerable alterations suggested by experience as calculated to remedy a crying nuisance. Dog act.
- 6 Wm. 4, No. 5. The particulars of this Act (for appropriating the Revenue of the Colony for the year 1836) have been fully entered into in forwarding a printed Copy with my Despatch of the 18th September last, No. 92, and in my previous Despatch of the 12 August, No. 79, with which I transmitted the estimates for the same, and the supplementary estimates for the former year. Appropriation act.
- 6 Wm. 4, No. 6. This act applies some of the provisions of the English Vagrant Law to this Colony, with certain modifications, adapted to its peculiar circumstances. The principal novelty, which it introduces, is the placing under the more direct eye of the Police, by means of a registry of every change of abode, all those who return to the Colony after serving a 2nd sentence of Transportation in a Penal Settlement. Vagrancy act.
- 6 Wm. 4, No. 7. It was represented as a hardship that vessels trading between Sydney and Hobart Town should be charged with the expence of a Pilot on every occasion of entering Port Jackson. The present act has been passed to relieve small regular Traders between the two Colonies from this payment, except when a Pilot shall be actually employed. Act for exemption of intercolonial vessels from pilot fees.
- 6 Wm. 4, No. 8. This Act is supplementary to the act passed in the 3rd year of the reign of His present Majesty for regulating the licensing of public Houses, containing a few additional provisions suggested by the Magistrates. License amending act.
- 6 Wm. 4, No. 9. This Act explains a slight ambiguity in the act of last year for regulating the alignment of Streets. Act *re* alignment of streets.
- 6 Wm. 4, No. 10. This Act extends to those parts of the Territory of New S. Wales, which are beyond the boundary of location, the provisions of the act passed in the 3rd year of His Present Majesty for preventing the Extension of the infectious disease in Sheep called the Scab; so large a proportion of the Flocks of the Colony are now depastured at remote stations Act for extension of scab in sheep act.

1835.
24 Dec.

beyond the operation of the former act, that the further provision now made appeared to be generally desired by the Settlers. It was particularly required for the protection of the A.A. Co., whose recent grant* of about 500,000 acres is beyond the limit marked out for ordinary location.

Act for repair
of parish
roads.

6 Wm. 4, No. 11. This act was passed by the advice of the Committee of the Council, to whom the expediency of a provision for repair of Parish Roads was referred and whose Report will be found printed among the Votes and Proceedings of Council. The subject is, in the present state of the Colony, a very difficult one to dispose of satisfactorily. To defray the expence of repairing all cross Roads from the general Revenues of the Colony is out of the question. At the same time, the state of the Colonial Population does not readily admit of the introduction of effective district or parochial arrangements for raising and applying local funds for these and similar purposes. Much inconvenience will no doubt be often endured before a people, wholly unaccustomed to co-operate in the manner required upon such occasions, will come forward to adopt and apply the provisions of the present Act. It was necessary however to begin to lay the foundation of some system, by which each Parish should keep up its own roads, and to which the Government could refer those who complained of their decay as the proper means of accomplishing the necessary repairs.

Act re powers
of supreme
court.

Acts re duty on
grain and flour.

6 Wm. 4, No. 12. This act† was passed at the desire of the Judges.

6 Wm. 4, Nos. 13 and 14. These acts were passed on account of the deficiency of the wheat Harvest, to facilitate to the utmost the introduction of foreign grain and flour.

I have, &c.,
RICHD. BOURKE.

LORD GLENELG TO SIR RICHARD BOURKE.
(Despatch No. 90, per ship Strathfieldsaye.)

25 Dec.

Sir,

Downing Street, 25th December, 1835.

There is one point adverted to in your Despatch of the 30th Septr., 1833, on the Ecclesiastical arrangements of New South Wales, which I have thought it desirable to notice in a Separate Despatch.

Plan for
appointment
of chaplains.

I allude to that part of the plan, in which you propose that a Chaplain of the Creed of the Congregation shall be appointed by the Crown in the manner now practised, and that he should be secured in the receipt of his Stipend, unless removed from his Chaplaincy for misconduct. Hitherto, as you are aware, the

* Note 67.

† Note 68.

appointments of the Roman Catholic and of the Presbyterian Clergy in New South Wales, as in other Colonies, have in reality emanated from the Government, or at least received its sanction, though they have in form proceeded from the Authorities of their respective Churches. If you contemplate a continuance of this system, your proposal appears to me free from any objection. It is perfectly reasonable and highly expedient that the Government should exercise a check on the nomination of Individuals receiving a Stipend from the Public Revenue of the Colony; but I should be unwilling to sanction a more direct mode of appointment by the Crown, with respect to the Ministers of these two denominations, than that which has hitherto prevailed, and which has been found adequate to the end sought to be attained. In the preparation of the Legislative measure required to carry into effect the proposed general arrangement, you will not fail to keep in view the distinction to which I have adverted.

1835.
25 Dec.

Necessity for
check on
nomination
of chaplains.

I am, &c.,
GLENELG.

LORD GLENELG TO SIR RICHARD BOURKE.
(Despatch No. 91, per ship Strathfieldsaye.)

Sir, Downing Street, 26th December, 1835.

26 Dec.

In my Dispatch No. 81 of the 30th of Novr. last, I expressed a hope that I should shortly be able to announce to you the appointment of a Clergyman for Norfolk Island.

I am glad to find from a communication, which I have recently received from the Archdeacon of New South Wales, that there is reason to suppose that the spiritual wants of that settlement are not at present as wholly unprovided for as was conceived, and that Mr. Leach had transferred his Services from Van Diemen's Land, where he has acted in the capacity of Catechist to the Road Parties, to Norfolk Island.

Reported
transfer of
catechist to
Norfolk island.

I have further to acquaint you that the Archdeacon has succeeded in meeting with a Gentleman, who has produced very satisfactory testimonials of his qualifications, and is willing to undertake the Office of Chaplain at Norfolk Island. He will, I trust, shortly be admitted to Holy Orders and proceed to the Colony. It is proposed that Mr. Stewart, the Gentleman referred to, should receive a Salary of £200 per Annum, to be paid from the Funds voted by Parliament for Convict expences, and that he should also have the benefit of Rations and Quarters. If, on his arrival at New South Wales, it should appear that Mr. Leach is officiating at Norfolk Island, and that the Establishment at Moreton Bay has not yet been broken up, which appears to be the opinion of the Archdeacon, Mr. Stewart will enter on his

Prospective
appointment of
chaplain for
Norfolk island.

1835.
26 Dec.
Instructions *re*
employment of
Stewart and
Leach.

Proposed
reduction of
establishment
at Moreton bay.

Reports
required *re*
Norfolk island.

duties at the latter place; but, if Norfolk Island should be without a Clergyman, or if the Establishment at Moreton Bay should no longer be in existence, Mr. Stewart will in either case proceed to Norfolk Island. The effect of this latter arrangement would be to displace Mr. Leach, but he might probably in that event find employment elsewhere in the Colony, or resume his former Functions in Van Diemen's Land. I have been for some time in expectation of hearing that you have been able to effect the total reduction of the Establishment at Moreton Bay. This step has been long since authorized by my Predecessors, and I perceive, by your Dispatch of the 15th of January, 1834, that you contemplated transferring the Convicts under short sentences to hard labor in the Colony and those under long sentences to Norfolk Island. If any circumstances have hitherto prevented this intention being carried into effect, I trust that no further delay will take place in accomplishing it. On the expediency of maintaining any penal settlement of this nature, I entertain considerable doubt; but, before I can form a decided opinion upon this subject, I am desirous of obtaining from you a full Report on the Settlement at Norfolk Island.

The two chief points on which I wish to be favored with your opinion are:

1st. The moral effect produced by banishment to that Island on the Individuals confined there, and 2nd. the effect of the punishment as a prevention of Crime in the Colony.

Its advantages or disadvantages in a Financial point of view, though secondary, is not an unimportant consideration, and will not escape your notice. In the event of the result of your investigation being adverse to the maintenance of the Settlement, I should wish you to suggest in what manner the description of Criminals now sent to the Settlement could be best disposed of, and what would be the comparative expence involved by any system which you might propose to substitute for that of banishment to Norfolk Island.

I have, &c.,
GLENELG.

SIR RICHARD BOURKE TO LORD GLENELG.
(Despatch No. 126, per ship Hercules.)

My Lord, Government House, 26 Decr., 1835.

Transmission of
statements *re*
expenditure.

In reply to the Despatch of the Earl of Aberdeen of the 31 March last, No. 34, I have the honor to transmit, on a separate sheet, statements explanatory of the expences incurred by this Government without previous authority as represented by the Commrs. of Audit in their Report of the 16th of the same month accompanying the Despatch above referred to.

I beg to add, in further explanation, that, shortly after I had taken charge of this Government, I carried into effect the Instructions of the Secretary of State for the reduction of the *Lumber-yard*, the Establishment by means of which all public Buildings had, with few exceptions, been previously constructed and repaired. There remained on the reduction some works in hand, and many estimated for as necessary, which it was required to complete or commence without delay. Previous authority from the Secretary of State had not always been required for an expenditure, which consisted almost exclusively of Convict-Labor and the use of stores sent periodically in large quantities from England. Much inconvenience and loss to the Public would have ensued, if I had discontinued all necessary constructions, additions and repairs not previously reported and authorized. Further, I found it expedient shortly after the reduction of the Lumber yard to separate the charge of the Colonial Buildings from the Military and Convict, placing the two last under the Commissariat, in whose accounts the Expenditure figures which I have been called upon to explain. This service becoming considerable, I formed, in January, 1833, a Board of Works upon the Ordnance system as reported in my Despatch of the 5th February, 1833, No. 19, which covered the Report of a Committee of Inspection held on the Military and Convict Buildings in Sydney in September, 1832. In that Despatch, I pointed out to the Secretary of State the large expenditure which I should be called upon to incur without previous authority, and solicited the appointment of a Board of Respective officers of ordnance. To this communication no reply came to hand until the 9th April of the present year, when I had the honor to receive the Despatch of Mr. Secretary Spring Rice of the 15 November, 1834, No. 39, announcing the intended appointment of an Officer of the Royal Engineers with a Storekeeper. Neither of these officers arrived until within these few days. I remained therefore under the necessity of retaining the services of the Board of Works, and continued to appoint Annual Committees of Inspection and have transmitted to the Secretary of State the Reports for 1833 and 1834, in addition to that of 1832 before referred to, those for the last two years including the Town of Paramatta. In those Reports, the great expence, which I have been obliged to authorize without previous reference, is fully stated and explained, and will I hope be considered as sufficient to enable your Lordship to direct the Commrs. of Audit to pass those charges as they appear before them in the Commissariat Accounts.

1835.
26 Dec.

Reduction of
lumber yard.

Public works
required.

Formation of
board of works.

Intended
appointment
of officer of
engineers.

Annual
committees
of inspection.

I have further to state that, in addition to the works required by the annual committees of Inspection in the Towns of Sydney

1835.
26 Dec.

Necessity for
additional
buildings.

and Paramatta, the late augmentation of the Military Force, the accession of large Bodies of Convicts, and the natural encrease of the Population have rendered it necessary from time to time to add to the Military, Convict, and Police Buildings in other parts of the Colony besides Sydney and Paramatta, for which the Report of the annual Committee could not be obtained without great inconvenience to officers having other public duties to perform, nor without considerable expence for travelling charges. No additions have been made nor repairs or conversions authorised, which were not absolutely required, and all have been effected by the agency of the Board of Works upon a regular system, and with the greatest regard to economy. For this Expenditure, the previous authority of the Secretary of State is necessarily wanting, but his sanction will I trust be conveyed to the Auditors when they shall bring these matters before him.

Reasons for
unreported
expenditure.

The Expenditure, for which I have been called upon to account in the Despatch under reply, and other expences of a similar nature, have not been reported in the Quarterly Schedules, having been considered by the Assistant Commissary of Accounts not as services of a special nature, but as those which are of constant and unavoidable recurrence.

Expenditure
submitted for
approval.

I have the honor to add a Return setting forth items of expenditure above £200, which I have to request your Lordship will, upon the explanation now given, authorize the Commrs. of Audit to pass in account, together with the Expenditure which has been reported upon by the Annual Committees of Inspection.

I have, &c.,

RICHD. BOURKE.

[Enclosure.]

[*This return will be found in a volume in series II.*]

SIR RICHARD BOURKE TO LORD GLENELG.
(Despatch No. 127, per ship Hercules.)

My Lord,

Government House, 26 Decr., 1835.

Transmission
of draft of bill
proposed for
government
of colony.

As the N. S. Wales act, 9 Geo. 4, cap. 83, will expire on the last day of the year 1836, it will be the wish of H.M.'s Government to replace it by a fresh enactment suited to the present circumstances of the Colony. It may be expected that I should afford such information of the Existing state of Colonial affairs and of the wants and wishes of the colonists as my position enables me to obtain. To accomplish this object, I have requested Chief Justice Forbes to prepare a Bill containing such clauses as, upon the best consideration which I have been able

to give to the subject, embrace those matters which it will be advisable either to originate or renew by an Act of the British Parliament. I have now the honor to transmit a copy of the Bill with Explanatory Notes, and for further information on the State of the Colony I beg leave to refer your Ldship. to the Despatches specified in the margin.*

1835.
26 Dec.

Transmission of draft of bill proposed for government of colony.

The most important novelty, which this Bill contains, is the Institution of a Legislative Assembly. In my Despatch of the 25 Decr., 1833, marked "*Separate*," I had the honor to lay before the Secretary of State my reasons for considering the Legislative Council as at present established unsuited to the actual condition of the Colony. Since the date of that Despatch, New South Wales has risen surprisingly in importance and wealth. Whatever arguments were then urged against the continuance of a close Council are now of greater weight. Public attention has been more frequently called to the consideration of the subject, and the opposing Parties amongst the Colonists seem to agree in this, that an assembly representing the intelligence and wealth of the Colony is necessary for the due administration of its affairs. It would seem then no longer advisable to withhold an Institution of the character I have described. The manner and form of its Establishment, whether by one or two Chambers, the number and class of persons in each, and the nature of qualifications and disqualifications both of Constituents and Representatives are the important points for consideration. The Institution at this time of one Chamber only, consisting of about the number stated in the Bill, seems to be the general wish, tho' there may, and do I believe, exist many diversities of opinion upon the subject. Instructions regarding Representation have been or will be given to a Member of the House of Commons (Mr. Lytton Bulwer) by an association† lately formed in Sydney and growing out of a public meeting held to petition Parliament for free Institutions in New South Wales. I am not exactly aware of the precise nature of the instructions, which Mr. Bulwer is to receive; but I may observe that the association, of whose opinions he is the organ, is composed of a numerous and respectable body of Colonists.

Proposal for institution of legislative assembly.

Proposal for one chamber.

Instructions expected from Australian patriotic association.

In considering and arranging the Elements of a popular assembly in this community, the chief difficulty is found in determining the disqualifications both as regards Representatives and Electors. I believe the Bill contains the most judicious arrangement that circumstances permit, denying to Emancipists, as in

Qualifications for representatives and electors.

* *Marginal note.*—Febry. 6, 1832, No. 16; Febry. 22, 1832, No. 25; Sep. 12, 1833, No. 69; Sep. 30, 1833, No. 76; Oct. 1, 1833, No. 77; Oct. 2, 1833, No. 79; Separate, Dec. 25, 1833; Jan. 15, 1834, No. 1; July 4, 1834, No. 59; Dec. 18, 1835, No. 119.

† Note 16.

1835.
26 Dec.

Necessity for
statutory
enactment.

the Canada and Newfoundland Acts, the right to sit in the House, but giving to them the Elective Franchise. In whatever light H.M.'s Government may view this part of the case, I beg very earnestly to represent the necessity of its being determined and defined by an act of the British Parliament. Justice could hardly be done to the question in the Legislative Council now existing in the Colony, and the heat and discord of Party would pervade the whole community whilst the matter was under discussion. Nor would the decision of the Council, whatever course it might take, be regarded with general respect, or quietly submitted to. The Act of Parliament on the contrary would be considered with reverence, and, being on the whole a charter of Liberty, the details of the measure would meet with little opposition. For the same reason, I very anxiously desire that the disqualifications of Jurors should be determined by Parliament.

Proposed act re
New Zealand.

The notes on the Bill being very copious, I have little to add in the way of explanation. I would briefly observe that, with respect to an act for New Zealand alluded to in the note on Sectn. 35, I beg leave to refer your Lordship to the despatches specified in the margin,* which shew the intention of H.M.'s Government on appointing a Resident in 1832 and the necessity for some arrangement by which that officer may become more efficient.

Provision for
circuit courts.

In section 45, it is enacted that the Places and Times for holding circuit courts shall be fixed by Law. I am apprehensive this might be a source of some inconvenience, and that both time and place had better be left for appointment in the Commission to be issued by the Governor.

Legislation
proposed re
tickets of leave.

In my Despatches specified in the margin,† I had the honor to represent to the Secretary of State the prejudicial consequences arising from the Act of Parliament 2 and 3 Wm. 4, Cap. 62, Sec. 2. I beg very earnestly to recommend not only that the Ticket of Leave Holder be enabled to maintain and recover the fruits of his industry, but that the grant of such revocable Indulgence be left to the discretion of the Governor. The privation of an easy and cheap reward for good conduct has been much felt by this Government since the passing of the Statute referred to.

Regulation
of deeds of
land grants.

Upon the form of Grants of Land, I had the honor to address the Secy. of State on the 16 Feby. last (No. 29). The clause in the Bill now transmitted will correct the error adverted to in

* *Marginal note.*—Ld. Goderich to M. Genl. Bourke: June 14, 1832, No. 103. M. Gl. Bourke: May 2, 1833, No. 41; Sep. 8, 1834, No. 97; Dec. 6, 1834, No. 123; Feby. 1, 1835, No. 12.

† *Marginal note.*—Novr. 20, 1832, No. 118; Dec. 18, 1834, No. 109; Dec. 23, 1835, No. 123.

that Despatch. It will be necessary, however, that the "Commencement of the Act" should not take place until a Copy shall have reached the Colony, in order that the issue of Grants in the King's name may be simultaneous with the commencement of the Act.

1835.
26 Dec.

There is but one matter of importance, which has occurred to me as unnoticed in the Bill now transmitted. It would, I think, be desirable for the reasons stated in my Despatch of the 15 Jany., 1834, No. 1, to give to the Governors of N. S. Wales and V. D.'s Land the power of placing Irons at their discretion on any transported Felon or Offender during any period of his servitude in either Colony. A clause to this effect might be added with advantage for the control of refractory or fugitive Prisoners.

Clause proposed
re irons for
convicts.

Your Lordship will observe that it is not proposed that any of the Members of the Legislative Assembly should be *ex-officio* Justices of the Peace. This privilege has been found to work inconveniently, and I strongly recommend its being withheld.

Prohibition
of *ex officio*
justices of
peace.

I have, &c.,

RICHD. BOURKE.

[Enclosure.]

[A copy of this proposed bill will be found in a volume in series IV; the following was a contemporary statement.]

Epitome of
draft of bill for
government of
colony.

The Bill, enclosed in the preceding Despatch being very long, will be best understood by the subjoined Epitome of it.

1. "There shall be a Legislative Assembly," with the consent of which the King shall have the power to make laws, all which laws shall be assented to on His Majesty's behalf by the Governor.

Legislative
assembly.

2. The Assembly is to consist of thirty six Members, of whom twelve are to be nominated by the King, and twenty five elected by the People.

Members.

3. The King may delegate to the Governor the nomination of the twelve Members, or any of them.

Nominee
members.

4. Vacancies on the list of nominated Members to be filled up by other nominations to be made by the Governor.

5. Ministers of religion. Minors, aliens, felons, and persons, convicted of any infamous offence in any part of the King's dominions, are to be ineligible.

Persons
ineligible as
members.

6. A Commission, composed of the Governor and of the nominated Members of the Assembly, are to divide the Colony into electoral districts, determine the number of representatives for each, subject to the rule that there must be twelve County Members, and twelve Members for Towns.

Division of
colony into
electoral
districts.

7. Voters are to be qualified by a freehold of the value of £100 Sterling, or of the yearly value of £10 in the Counties. In Towns, a freehold of the yearly value of £30 in Sydney or £10 in any other Town, or a tenant at £40 per annum in Sydney or of £20 per annum in any other town, is to be entitled to vote.

Qualifications
of electors.

8. Minors, aliens and persons, convicted of any transportable crime in any part of the King's dominions, are disqualified, with an exception in favour of Convicts who have served their time or been pardoned.

Persons
ineligible
as electors.

1835.
26 Dec.
- Increase in electve members.
Term of office.
Speaker.
Oath by electve member.
Determination of qualifications.
Rules and orders.
Governor's power over bills.
Bills for Royal approval.
Reserved bills.
Import duties.
Appropriation of revenues.
Administration of justice.
9. By any law to be passed in the Assembly, twelve additional electve Members may be appointed, and the electoral districts fixed by that law.
10. The Assembly are to meet once in every twelve Months, and are to continue for four years subject to the right of prorogation or dissolution.
11. The Governor is to appoint and may remove the Speaker.
12. Every elected Member is to swear that he has an estate of £300 per annum or property of the value of £3,000.
13. All questions as to the right of Seats in the Assembly are to be determined by the House.
14. The rules and forms of the House of Commons are to be observed as far as the Constitution of the Assembly will admit.
15. The Governor may assent to or dissent from bills, or reserve them for the signification of the King's pleasure.
16. The Governor is to transmit all bills for the Royal approbation, which must be declared within two years.
17. Reserved bills are not to be in force, until the Royal pleasure shall be signified.
18. Certain import duties are declared perpetual.
19. The Appropriation of the public revenues, arising from the last mentioned Acts, is to be vested in the Assembly; but the Salaries of the Governor and Judges are to be permanently secured.
- The rest of the Act relates to the administration of justice and several miscellaneous topics, of which it may for the present purpose be sufficient to say that, even supposing them to be the proper subjects for Parliamentary legislation, they are not necessarily connected with the principal object, which is that of establishing a proper Legislature; and therefore no reference is made to them in this place.

SIR RICHARD BOURKE TO LORD GLENELG.

(Despatch No. 128, per ship Hercules; acknowledged by lord Glenelg, 11th August, 1836.)

My Lord,

Government House, 26 Decr., 1835.

Transmission of explanation from
C. D. Riddell.

Refusal of inquiry.

I have the honor to transmit a letter addressed to Your Lordship by Mr. Riddell. It conveys some further explanation of the proceeding, which led to his suspension from the exercise of the functions of an Executive Counsellor. I consider the case to have been brought so completely to a point by the correspondence, which I had the honor to transmit with my Despatch of the 2d December instant, No. 117, as to render any observations on the papers now forwarded altogether superfluous. I would merely remark that I deemed the enquiry proposed by Mr. Riddell to be unnecessary, as I had come to a decision upon his own admissions; and, being unnecessary, it would have been highly injudicious as calculated to continue and extend a very mischievous excitement. Mr. Riddell indeed desires to deny the existence of any excitement or demonstration of party-feeling.

It is however made sufficiently evident by the letters of Mr. Scott and Mr. Jones now transmitted; and, for further proof, I beg to refer your Lordship to the Colonial Newspapers* of October and November last. That Excitement could not have been trifling which induced a Member† of the Legislative Council to make an assertion before a meeting of Justices of the Peace, which he now declares was wholly unauthorised, and by which the Justices were grossly deceived.

1835.
26 Dec.

Excitement *re*
election of
chairman of
quarter sessions.

With respect to another assertion by Mr. Jones contained in his letter now transmitted, that no minute was made of the proceedings of the Sydney Bench, I have the honor to transmit a copy of the Chairman's Letter and the Extract it enclosed. It is remarkable that of the two things which the Extract predicates, the first is admitted to be true by Mr. Riddell, and the other by Mr. Jones. It seems strange therefore that the correctness of the document should be questioned by either of these gentlemen.

Minute of
proceedings
of bench of
magistrates.

I have, &c.,

RICHD. BOURKE.

[Enclosures.]

[Copies of these papers are not available.]

SIR RICHARD BOURKE TO LORD GLENELG.

(Despatch marked "Separate and Confidential," per ship Hercules.)

My Lord,

Government House, 26 Decr., 1835.

Referring to my Despatch of this date, with which I have transmitted the Draft of a New Act for this Colony, I have now the honor to lay before Your Lordship a List containing the names of those resident Gentlemen from amongst whom I would wish to be allowed to select the twelve members of the Legislative Assembly, proposed by the Bill to be nominated by His Majesty.

Colonists
proposed for
selection as
nominee
members of
legislative
council.

Considering the great delay in communicating between this Colony and Great Britain and the necessity for placing useful Persons in the Legislative Assembly, I would respectfully submit the propriety of leaving it to the discretion of the Governor of New South Wales to select any twelve Persons from the list, provided that four be taken from those who are proposed in right of office.

The List has been made long, as it is supposed several of the Persons who are named will sit by election and the Governor will have to select from those unreturned.

I have, &c.,

RICHD. BOURKE.

* Note 69.

† Note 70.

1835.
26 Dec.

[Enclosure.]

Persons
proposed for
selection as
nominee
members of
legislative
council.

LIST of Persons,* whose names are proposed to be inserted in the Warrant under the King's Sign Manual, as provided by Sect. 3 of the Draft Bill for New South Wales, any 12 of whom may be selected by the Governor.

IN right of office.—Chief Justice; Officer next in command; Colonial Secretary; Colonial Treasurer; Colonial Auditor; Collector of Customs; Collector of Internal Revenue; Princl. Supt. Convicts; Attorney General; Solicitor General.

Sir John Jamison, Knt., Regentville; Thomas Potter Macqueen, Segenhoe; John Kenneth McKenzie (late Lieut. Col., 4th (K.O.), Glenfield; John Thomas Leahy, late Lt. Col., 21 R.N.B. Fusiliers, Illawarra; Wm. Charles Wentworth, Vacluse; Roger Therry, Commr. Ct. Requests, Sydney; Thomas Wills, Campbell Town; John Blaxland, Newington; Hannibal Hawkins Macarthur, Paramatta; Willm. Cox, Junr., Hobart Ville; Wm. Edward Riley, Raby; James Macarthur, Camden; Thomas Shadforth (late Lt. Col., 57 Regt.), Woolomooloo; Philip Parker King (Capt., R.N.), South Creek; George Cox, Mulgoa; Willm. Ogilvie (Commr., R.N.), Merton; Robt. Campbell, Junr., Bligh Street, Sydney; Wm. Lawson, Prospect; Charles Sturt, Mittagong; Charles Throsby, Bong Bong; George Palmer, Paramatta; Thomas V. Blomfield, Dagworth; Francis Stephen, Sydney; Andrew Gibson, Terrana; George Macleay, Brownlow Hill.

LORD GLENELG TO SIR RICHARD BOURKE.

(A circular despatch per ship Strathfieldsaye.)

30 Dec.

Sir,

Downing Street, 30th December, 1835.

Transmission
of handbill re
robbery by
G. Jackson.

At the request of Messrs. Ashley and Son, I have the honor to transmit to you a printed handbill, describing the particulars of a Robbery stated to have been committed upon them by George Jackson; you will give every publicity to the same, with a view to the arresting of this Individual, who is supposed to have taken refuge in one of the British Colonies.

I have, &c.,

GLENELG.

[Enclosure.]

[This was a handbill, offering a reward of £200 for the apprehension of G. Jackson, and the recovery of the notes and specie stolen from Messrs. Ashleys, bankers.]

LORD GLENELG TO SIR RICHARD BOURKE.
(A circular despatch per ship Strathfieldsaye.)

1835.
30 Dec.

Sir, Downing Street, 30th December, 1835.

I have the honor to transmit to you a copy of a Work* published on Roads by Sir Henry Parnell, containing much useful information derived from the plan adopted by Mr. Telford in the improvement of the Road from London to Holyhead. As the facility of internal communication by land is an object of much public benefit and importance in all countries, I hope that the information comprised in this book may be of use in the construction or improvement of roads in the Colony under your Government.

Transmission
of work *re*
roadmaking.

I have, &c.,

GLENELG.

SIR GEORGE GREY TO SIR RICHARD BOURKE.
(Per ship Westmoreland.)

Downing Street, 31 Decr., 1835.

31 Dec.

SIR GEORGE GREY presents his Compliments to Sir Richard Bourke, and transmits herewith the documents referred to in Lord Glenelg's despatch No. 81 of the 30th Novr. last, relating to the system of National Education in Ireland, and also to the Proceedings of the British and Foreign School Society.

Transmission
of papers *re*
education.

[Enclosures.]

[*These were the parliamentary sessional papers No. 70 of 1834, and the report of the British and Foreign bible society.*]

SECRETARY OF STATE TO SIR RICHARD BOURKE.

1836.

THE following despatches,† written in the year 1836, have been omitted:—

Despatches
omitted.

Despatch dated	Despatch numbered	Transmitting
20th January	96	approval of requisition for medical stores.
31st January	101	free pardon for James Farrell.
12th February	107	do Joseph Cuff.
26th February	113	recommendation of indulgence for Alexander Munro.
2nd March	120	duplicate of pardon for James McKenzie.
3rd March	121	approval of seventy-four conditional pardons.
8th March	125	recommendation in favour of William Baird, convict.
11th March	127	approval of commutation of death sentence on James Hillas.
24th March	131	free pardons for James Brine and others (unnamed).
16th April	143	do Edmund Murray and others (unnamed).
6th June	163	conditional pardon for John Hagon.
16th June	165	free pardon for John Anderson.
17th June	166	remarks <i>re</i> sentence on Sarah Lampard.
19th June	168	authority for conditional pardon for James Maydwell.

* Note 72.

† Note 73.

1836.

THE following despatches, written in 1836, have been omitted—*ctd.*Despatches
omitted.

	Despatch		Transmitting
	dated	numbered	
29th June	169	approval of one free and ninety-four conditional pardons.
5th July	171	remarks <i>re</i> sentences on Michael Breen and Michael Canfel.
8th July	172	pardons for Charles Edsell, John Manning and Joseph Mason.
9th July	173	request for report <i>re</i> Jean Henri Kutho, convict.
10th July	174	pardons for seven Greek convicts.
12th July	175	request by Ann Bradley for assignment of convict.
26th July	178	conditional pardons for Thomas Purfleet, John Palmer and William Butcher.
28th July	179	recommendation in favour of Augustine Lowry, convict.
15th August	—	inquiry <i>re</i> property left by Michael Burne.
24th August	196	authority for free pardon for James Daley at end of eight years.
6th September	208	free pardon for William Moore.
10th October	216	pardons for convicts transported for machine-breaking.
28th October	221	conditional pardon for William Flanagan and free pardon for Daniel Boyle.
30th November	232	free pardon for Patrick Keenan.
3rd December	235	statement <i>re</i> transmission of pardon for John Dickenson.
20th December	244	approval of five absolute and seventy conditional pardons.
31st December	246	approval of commutation of death sentences on William D'Arcy and James Ryan.

ASSIGNMENTS OF CONVICTS.

Assignments
of convicts.

DURING the year 1836, 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.
12th February ..	Strathfieldsaye	270 Males.
6th May	Moffatt	399 "
2nd June	Lady Kennaway	300 "
21st June	Elizabeth	161 Females.
27th October ...	Norfolk	280 Males.
21st December ..	Prince George	250 "
29th December ..	Sarah and Elizabeth ..	98 Females.

Convicts
ordered for
labour on
public works.

LETTERS nominating convicts for labour on public works were written as follows:—

Date of letter.		
12th February	11 convicts	<i>ex</i> Strathfieldsaye.
6th May	12 "	<i>ex</i> Moffatt.
2nd June	21 "	<i>ex</i> Lady Kennaway.
27th October	11 "	<i>ex</i> Norfolk.
21st December ...	19 "	<i>ex</i> Prince George.

SIR RICHARD BOURKE TO SECRETARY OF STATE.

1836.

THE following despatches,* written in the year 1836, have been
Despatches omitted.

Despatch		numbered	Transmitting
dated			
8th January	.....	4	return of prisoners tried before the supreme court.
25th January	.....	8	recommendation for conditional pardons for Thomas Purfleet and John Palmer.
31st January	.....	11	recommendation for conditional pardon for William Butcher.
1st February	.....	12	quarterly return to September, 1835, of expenditure from military chest.
2nd February	.....	13	quarterly return to December, 1835, of expenditure from military chest.
2nd February	.....	14	quarterly return of expenditure from colonial treasury.
2nd February	.....	15	quarterly return of intestate estates.
20th February	.....	18	report <i>re</i> James Loveless, Thomas Stanfield, John Stanfield, James Hammett and James Brine.
21st February	.....	19	quarterly return of expenditure from colonial treasury.
27th February	.....	25	recommendation of seven convicts for indulgence.
2nd March	.....	31	monthly returns <i>re</i> emigrants.
5th March	.....	34	query <i>re</i> sentences on female convicts <i>per</i> ship <i>Henry Wellesley</i> .
17th March	.....	38	invoice and list of seeds of Australian plants.
4th April	.....	42	medical returns.
2nd May	.....	51	quarterly return of intestate estates.
13th May	.....	55	quarterly return of expenditure from colonial treasury.
14th May	.....	56	abstract of revenue and expenditure for year 1835.
15th May	.....	57	seventy-two conditional and five absolute pardons for approval.
1st June	.....	58	withdrawal of recommendation for free passage for family of William Bowles, convict.
14th June	.....	64	cases of William D'Arcy and James Ryan, capital respites.
10th July	.....	72	"blue book" for the year 1835.
25th July	.....	80	recommendation of John Hartc for cond'l pardon.
2nd August	.....	84	quarterly return of expenditure from treasury.
11th August	.....	88	quarterly returns to March of expenditure from military chest.
12th August	.....	89	quarterly return of expenditure from treasury.
20th August	.....	92	quarterly returns to June of expenditure from military chest.
12th September	.....	98	two absolute and one hundred and forty-two conditional pardons for approval.
17th September	.....	103	recommendation of Peter Flynn for ticket of leave.
30th September	.....	106	petition from John Williams for free pardon.
9th October	.....	110	return of retired allowances.
12th October	.....	113	thirteen monthly returns of immigrants.
2nd November	.....	116	quarterly return of intestate estates.
25th November	.....	128	report <i>re</i> Alexander Munro, convict.
26th November	.....	129	do <i>re</i> indulgence for William Baird, convict.
27th November	.....	130	quarterly schedule of alterations in expenditure from colonial treasury.
28th November	.....	131	recommendation of William James and Alexander Lambert for commutation of death sentence.
27th December	.....	137	report <i>re</i> James Scofield, convict.
31st December	.....	141	one absolute and one hundred and thirty-nine conditional pardons for approval.

SIR RICHARD BOURKE TO UNDER SECRETARY OF STATE.

THE following despatches,* written in the year 1836, have been omitted:—

Date.	Transmitting
12th May	report <i>re</i> Augustin Lowry, convict.
15th August	do <i>re</i> Euphemia Barnett, convict.
1st October	do <i>re</i> Edward Bailey and Bryan Kine, convicts.
21st November	do <i>re</i> James Reilly, convict.

* Note 73.

1836.
1 Jan.

SIR RICHARD BOURKE TO LORD GLENELG.
(Despatch No. 1, per ship Fortune.)

My Lord, Government House, 1 Janry., 1836.

Suggestions
re bill for
government
of colony.

Referring to my Despatch of the 26 Ult., No. 127, with which I transmitted the Draft of a Bill containing the leading provisions by which it appeared to me desirable to replace those of the Expiring New South Wales Act, I have the honor to submit the following additional suggestions.

Practice
proposed re
granting of
pardons to
convicts.

The present act, s. 33, requires that all Pardons granted by the Governor be sent to England, and, upon H.M.'s Gracious allowance being signified through the Secy. of State, gives them operation from the date of the Instrument. I have already represented the inconvenience of this retrospective operation, and recommended that the Pardon take effect from the time of H.M.'s Allowance being notified by the Governor within the Colony. I now beg leave further to suggest whether the transmission of the original Instrument to England be necessary. At present, it is for this purpose prepared on parchment at full length signed by the Governor and certified by the Colonial Secretary. On receipt of the allowance, a Duplicate is prepared, with regard to which the same forms are repeated, and a certificate is annexed referring to the date of the Despatch by wh. the allowance is notified. I wou. propose that in future no Instrument of Pardon be prepared until H.M.'s permission be received in the Colony. In applying for such permission, it appears to me nothing more can be required for the office of the Secy. of State than a List of the names and particulars of convictions of the Persons recommended together with the Documents in support of the recommendation which, according to existing practice, are transmitted to England with the Pardons now proposed to be omitted.

Necessity for
additional
commissioners
of court of
requests.

I take the present opportunity of adding to the List of communications to which I have referred your Lordship for information on the questions connected with the preparation of a new Law for this Colony, my Despatch of the 30th October, 1832. No. 110. I have there stated the inconvenience that arises from the restriction of the powers of Commissioner of the Court of Requests to one Individual appointed by His Majesty. Should your Lordship think it expedient to introduce any provision into the new Act relating to these Courts, it will be desirable that a power be given to the Colonial Legislature to appoint Commrs. where required. It is not intended, however, that the present system should be re-modelled whilst the Commissioner appointed by His Majesty continues in office.

I have, &c.,

RICHD. BOURKE.

LORD GLENELG TO SIR RICHARD BOURKE.
(Despatch No. 92, per ship Strathfieldsaye.)

1836.
2 Jan.

Sir, Downing Street, 2d January, 1836.

I have to acknowledge the receipt of your Despatch No. 62 of the 18th of July last, and to acquaint you in reply that the despatch to which you refer, conveying His Majesty's confirmation of certain Pardons, was intended to have been addressed to Lieut. Governor Arthur; And you therefore acted properly in forwarding that Communication to him.

I am, &c.,

GLENELG.

Error in transmission of despatch intended for Tasmania.

LORD GLENELG TO SIR RICHARD BOURKE.
(Despatch No. 93, per ship Strathfieldsaye.)

Sir, Downing Street, 3d January, 1836.

3 Jan.

I have had under my consideration your Despatch No. 64 of the 20th July last, enclosing a Memorial from the Committee of the "Sydney College," praying for the Grant of a certain portion of Land adjoining the Site of the College.*

Despatch acknowledged.

I entirely concur in the opinion expressed by Lord Stanley in his answer to the application made to him, on behalf of the Sydney Mechanics' School of Arts, for a Grant of Land, as to the inexpediency of this particular mode of increasing the property of Institutions. You also yourself are of opinion that much embarrassment would follow from the extension to this Institution of further aid by the Government, whether in Land or Money, on account of the number of other demands of a like nature, to which it would give rise; and you state that the pretensions of other Establishments, not easily distinguishable from this, have been rejected by the Council.

Approval of policy of restriction of land grants for institutions.

Under these circumstances, I can only express my regret that I do not feel justified in authorising a compliance with the prayer of the Memorial, or in recommending the Grant of an equivalent to the Land applied for.

I am, &c.,

GLENELG.

Refusal of Land grant for Sydney college.

LORD GLENELG TO SIR RICHARD BOURKE.
(Despatch No. 94, per ship Strathfieldsaye.)

Sir, Downing Street, 4 January, 1836.

4 Jan.

I have to acknowledge the receipt of your Despatch No. 66 of the 22d of July last, enclosing a Memorial from Mr. Edward Hunt, praying that he may receive a Grant of 300 acres of Land, which he states was promised to him during the Government of Sir Thomas Brisbane on account of the maintenance of a certain number of Convicts.

Memorial from E. Hunt acknowledged.

1836.
4 Jan.

Refusal of land
grant for
E. Hunt.

If Mr. Hunt's representation is correct, there certainly does appear to have been great neglect on the part of the local Authorities in dealing with his case. It may be proper out of justice to those Officers, therefore, to ascertain how far his statements are correct; but, as he has delayed to send home his representation, until so long a period after the change in the Land Regulations, I do not feel that I can now with propriety entertain his claim.

I am, &c.,
GLENELG.

LORD GLENELG TO SIR RICHARD BOURKE.
(Despatch No. 95, per ship Strathfieldsaye.)

5 Jan.
Despatch
acknowledged.

Sir,

Downing Street, 5th January, 1836.

I have received your Despatch, dated the 26th of July last, No. 69, on the subject of the appointment of a Parliamentary Advocate for New South Wales in this Country.

Impolicy of
granting
subsidy for
parliamentary
advocate.

I approve your having declined to recommend a Bill for this purpose to the Legislative Council. Such a Bill, if passed into a Law, would have involved inconveniences so numerous and formidable as to demonstrate not merely the impolicy, but the impracticability of the Scheme. It would have indirectly given a legal and constitutional character to a voluntary Society, which might be dissolved or modified at the pleasure of its Members. It would have given an almost unanswerable claim to a similar concession on behalf of any other Association of Private persons, who might have demanded it. The Public money of the Colony would thus have been placed at the disposal of Societies unknown to the Law, and subject to no responsibility. Acts might have been done and letters written in the name of the Colonists collectively without the knowledge and even in opposition to the wishes of the great majority of the People. The proposed election of the Parliamentary Advocate and Secretaries would also have involved a system of popular representation formed for certain specific purposes only, and originating in the Act of a Legislature, themselves the Nominees of the Crown, the principles of that Representative system remaining at the same time wholly unexplained.

Objections to
subsidy for
member of
house of
commons.

Further, His Majesty's Government could not be parties to a measure of which the basis is that of employing the Revenues of a British Colony for the express purpose of remunerating a Member of the House of Commons for services to be done in his place in Parliament. Such a measure would be alien from the spirit and principles of the British Constitution.

You will, therefore, steadily oppose yourself to any scheme of this nature. But if Parliament shall sanction the Bill, which it is proposed to recommend to them, for the new Constitution of the Legislative Council of New South Wales, no objection will be entertained to the Enactment of a Law appointing, under proper Regulations, an Agent in this Country to correspond with that Body, and no Individual would personally be more acceptable to His Majesty's Government in that character than the Gentleman to whom the Patriotic Society have proposed to confide the Office of Parliamentary Advocate.

1836.
5 Jan.

Possible appointment of advocate for colony in England.

I am, &c.,
GLENELG.

SIR RICHARD BOURKE TO LORD GLENELG.
(Despatch No. 2, per ship Fortune.)

My Lord, Government House, 5 Janry., 1836.

In obedience to the Instruction contained in Mr. Secretary Spring Rice's Despatch of the 20 Augt., 1834, No. 21, I have the honor to report the payment, on the 4th inst., of the Money which I was thereby desired to call upon Mr. Macquoid to refund to the Colonial Treasury.

Refund made by T. Macquoid.

I have, &c.,
RICHD. BOURKE.

SIR RICHARD BOURKE TO LORD GLENELG.
(Despatch No. 3, per ship Fortune.)

My Lord, Government House, 6 Janry., 1836.

6 Jan.

I have the honor to forward, as required by Regulation, a communication addressed to your Lordship by a British Subject residing at New Zealand. He complains of the want of any effectual authority by means of which disputes arising there may be adjusted without personal violence, and instances a case in which he is a Party concerned.

Complaint by A. Powditch re want of authority in New Zealand.

I have already fully expressed my opinion of the necessity, both of some legal enactment and of the frequent visits of a British Ship of War, before the office of Resident can be made materially conducive to the advantage, either of the native or European Population of New Zealand. The particulars, detailed in the enclosed letter, do not appear to be such as require any special interference or to be in any way remarkable in the present state of affairs at the Bay of Islands.

Necessity for support of British resident.

I have, &c.,
RICHD. BOURKE.

[Enclosure.]

[A copy of this letter from Mr. A. Powditch, dated 1st December, 1835, will be found in a volume in series III.]

1836.
11 Jan.

SIR RICHARD BOURKE TO LORD GLENELG.
(Despatch No. 5, per ship Fortune.)

My Lord, Government House, 11 Janry., 1836.

Instructions
received *re*
payment of
pensions, etc.

I have to acknowledge the receipt of a Despatch from the Earl of Aberdeen, dated the 23rd March last, No. 32, and to inform Your Lordship that it was received here on the 5th July last and its contents were directed to be made known by the Colonial Secretary to the Treasurer and Auditor General of the Colony on the 11th. It had escaped my notice until this moment that I was directed by the Despatch to report the precise time when the Instruction it contained was received and made known to the Officers concerned.

I have, &c.,
RICHD. BOURKE.

SIR RICHARD BOURKE TO LORD GLENELG.
(Despatch No. 6, per ship Fortune.)

20 Jan.

My Lord, Government House, 20 Janry., 1836.

Demand for
increase of
police force
and police
magistrates.

In the Despatches* wh. I have had the honor to address to the Secretary of State upon the subject of the Police of the Colony, and in several of the Minutes I had laid before the Legislative Council, Your Lordship may observe that the call for an augmented civil Force on the part of the Colonists is represented as urgent and continued.

Increase of
police and
magistrates.

This demand for Police Magistrates and an enlarged constabulary has arisen not merely from the desire of protection by the arm of the Law against fraud and violence, a desire common to all Civilized nations, but further, from the anxiety of the Settlers of New South Wales to turn to the best account and obtain in the largest proportion the labor of the Convicts assigned to their service. To keep under or punish the idle or mischievous habits of these servants, the proximity of a Justice of the Peace with constables and the Ministers of Corporal punishment, called by a Committee of the Council "an indispensable class of men," has always been regarded as necessary to the success and comfort of a rural establishment. Security and gain were both considered in seeking an additional Police, and the call has therefore been general and loud. To meet this demand, I have from time to time made augmentations, first to the Constabulary and latterly to the number of the Police Magistrates. To defray part of the Expence, formerly wholly borne by the Military Chest, my Predecessors appropriated the Revenue derived from Licenses to retail Spirits, and during the last two years I obtained votes of money from the Legislative

Appropriations
to meet
expenditure.

* Note 74.

Council in aid of the Police Establishments, The last amounted to £12,000 for the year 1835. It was my intention to have proceeded in this way, proposing an augmented grant as it might seem required in consequence of an encreased establishment, when I received the commands of H.M.'s Government to charge upon the Colonial Treasury the whole expence of Police and Gaols. Being aware of the large sum which would thus be required from the Colonists, and mindful at the same time of their continued call for an encreased Police when the charge was principally defrayed by the British Treasury, I thought it advisable, on the Meeting of the Legislative Council in last May, to appoint a Committee "to enquire into and report upon the Establishment and strength of the Police Force in all its branches; to what extent it may be expedient to maintain it, and the expence it will occasion, and to enquire into the capacity and condition of the Gaols in the Colony, reporting what additional buildings appear to be required and the probable expence of providing them."

1836.
20 Jan.

Instructions
re charges
for police
and gaols.

Inquiry *re*
police and gaols
by committee
of council.

The Committee not having reported at the period when it became necessary, according to His Majesty's commands, to lay the Estimates for the ensuing year before the Council, the sum of £20,000 was, at the suggestion of the Committee, granted to defray the expence of Police and Gaols for the last six months of 1835, and the sum of £45,000 for 1836.

Appropriations
by council for
police and
gaols.

The Committee presented a Report in the month of October just as the Council was separating for the year. I have the honor to transmit a copy.

The perusal of this document will give Your Lordship some insight into the History and establishment of the Police Force of New South Wales, whilst it will at the same time be observed, both in the Report and Appendix, that the Committee wandered occasionally from the subject before them, and received evidence and reported upon matters not referred to their consideration. The Establishment, they have proposed, I consider in some cases too large, whilst I should have been glad to have seen an encreased pay recommended for ordinary constables. I have, however, in fixing the Establishment for the current year, thought it advisable to defer in a great measure to the recommendations of the Committee. The sum to be expended on this branch of the service is therefore very large, but not exceeding that which the council appropriated at its last Session. The charge will amount to above £40,000, as Your Lordship will perceive by the Estimate transmitted herewith. If to the amount there be added the sums voted for 1836 towards the erection of the large gaols at Sydney

Report by
committee.

Establishment
proposed.

Estimated
charge for
police and
gaols.

1836.
20 Jan.

and Paramatta, the whole charge on the Colonial Revenue for Police and Gaols during the present year will not be less than £58,000.

Itinerant
magistrates
proposed by
committee.

In one particular I have deviated from the suggestions of the Committee to an extent that may require explanation. The Committee recommended the appointment of three itinerant Magistrates at an annual charge of £1,575. It was further proposed and seemed desirable that these Magistrates should be escorted on their Journeys by two Mounted Police each, which would have required the appointment of six additional Troopers to that Corps at an expence of £413 7s. 6d. making the whole annual charge for these Magistrates £1,988 7s. 6d. It appeared to me that a cheaper and more efficient arrangement might be made by adding three officers to the Mounted Police and giving them Commissions of the Peace. These Military Justices with six additional Troopers and three scourgers will be maintained at the yearly expence of about £931 8s. 9d. for pay, rations and contingencies. I should here remind your Lordship that, in my Despatch of the 12 August last, No. 79, I have, for the reasons therein stated, represented the necessity of continuing to charge the Mounted Police upon the Military Chest; but, on whichever Treasury, British or Colonial, the expence of this Corps may ultimately rest, Your Lordship will, I doubt not, approve of my having effected the object proposed by the Committee at the cheapest rate.

Officers of
mounted police
appointed as
magistrates.

Proposal for
charge of
mounted police
on military
chest.

Estimate for
charges on
military chest.

I transmit an Estimate for the current year of the charges on the Military Chest for the Corps of Mounted Police and for Rewards paid for the apprehension of runaway Convicts, which charges I propose to continue on the Chest until I shall receive Your Lordship's reply to my despatch before referred to.

I have, &c.,

RICHD. BOURKE.

[Enclosures.]

[*These papers were printed in the "Votes and Proceedings" of the legislative council.*]

LORD GLENELG TO SIR RICHARD BOURKE.

(Despatch No. 97, per ship Strathfieldsaye; acknowledged by Sir Richard Bourke, 8th October, 1836.)

21 Jan.

Insufficient
details with
financial
statements.

Sir,

Downing Street, 21st January, 1836.

With reference to your Despatches No. 99 of the 25th September, 1834, and No. 51 of the 4th June last, in which you transmitted various Quarterly Returns of the Revenue and Expenditure of your Government, I have to acquaint you that the Lords Commissioners of the Treasury have informed me that

those Returns, unaccompanied by the Subsidiary Abstracts to which reference is made in them, do not afford the information under the several heads of Revenue and Expenditure specified in the Treasury letter, which was forwarded to you in Lord Goderich's Circular Despatch of the 28th February, 1832; and I have to desire that you will call the attention of the Officer, who is responsible for the preparation of these Returns, to the very incomplete state of those which have already been sent home, and that you will cause them to be made out and furnished in such manner as to contain all the information required by the Circular before mentioned.

I am, &c.,

GLENELG.

1836.
21 Jan.
Insufficient
details with
financial
statements.

LORD GLENELG TO SIR RICHARD BOURKE.
(Despatch No. 98, per ship Strathfieldsaye.)

Sir, Downing Street, 22d January, 1836.

22 Jan.

I have the honor to acknowledge the receipt of your Despatch No. 65 of the 21st July last, in which you apply for authority to issue the Title Deed of a Grant of 2,000 acres made to the late Mrs. Macquarrie by Sir Thomas Brisbane, subject to the approval of the Secretary of State.

Despatch
acknowledged.

The Despatches from Sir Thomas Brisbane have been examined with a view to ascertain the circumstances attending this Grant to Mrs. Macquarrie; but it appears that no trace can be found of any Report from that Officer on the subject. I should, therefore, have felt it my duty to have declined to sanction, after the lapse of so many years, the Grant of the Land to that Lady upon any other terms than those now in force; but, as it appears from your Despatch and its Enclosure that Possession of the Land has been given to the Agent of that Lady, and that the issue of the Title Deed is all that is required to complete the Grant, I shall not object to your issuing that Deed accordingly, which, I conceive, ought to be made out in the Name of that Lady, leaving it to her Legal Representative to establish his claim to it.

Absence of
report *re*
proposed grant
to widow of
L. Macquarie.

Instructions
for issue of
title deed.

I am, &c.,

GLENELG.

LORD GLENELG TO SIR RICHARD BOURKE.
(Despatch No. 99, per ship Strathfieldsaye.)

Sir, Downing Street, 23d January, 1836.

23 Jan.

I have received your despatch dated 27th July No. 71, with the transcript of an Act passed by Yourself with the advice and consent of the Legislative Council of New South Wales, on the 21st of that month entitled,

Despatch
acknowledged.

1836.
23 Jan.

Approval of
Commercial
banking
company act.

“An Act to enable the Proprietors of a certain Banking Establishment or Company carried on in the Town of Sydney in the Colony of New South Wales under the name, style and form of the Commercial Banking Company of Sydney to sue and be sued in the name of the Managing Director of the said Bank or Company for the time being, and for other purposes therein mentioned.”

Having laid this Act before the King, I have received His Majesty's Commands to acquaint you, that His Majesty has been graciously pleased to confirm and allow the same.

I have, &c.,
GLENELG.

SIR RICHARD BOURKE TO LORD GLENELG.

(Despatch No. 7, per ship Fortune; acknowledged by Lord Glenelg, 22nd August, 1836.)

24 Jan.

My Lord,

Government House, 24 Janry., 1836.

Issue of new
commission of
peace.

Some circumstances occurring in the last year led me to consider it advisable to take an early opportunity of issuing a New Commission of the Peace for this Colony. It had been the practice formerly to issue such Commissions periodically,* but it had not been resorted to since my arrival in New South Wales. At the commencement of the year, I directed one to be published into which were introduced the names of those Persons not previously selected, from whose services I anticipate advantage to the Colony, whilst the names of those Justices were omitted whose appointment I deemed it inexpedient to renew.

Omission of
civil and
military officers
from
commission.

Amongst those omitted are nearly all the Civil Servants of the Government, who in former times, for want of proper Persons unconnected with it, had been usually put in the Commission with certain Magisterial duties in Sydney specially appropriated to them. These duties were not regularly discharged by all, and were inconvenient and burdensome to others, whilst the connexion of these Justices with the Government rendered their position at times exceedingly embarrassing both to the Government and themselves; an instance of which had recently occurred. Being enabled by a better arrangement to dispense with the trifling duty they discharged, I thought it advisable to name in the new Commission those Civil Officers only, who held Legal appointments, and the P. Supt. of Convicts, who necessarily acts as a Justice of the Peace. I explained to the others in a circular Letter the motive for this change with respect to them. The names of Several Military Officers, who had obtained the Commission for special employments which they no longer held, were left out also.

* Note 75.

I omitted likewise the names of six or seven Settlers who, either not residing in the district for service in which they were, as I apprehend, first appointed, or who, having exhibited on the seat of Justice some factious feeling towards the Govt. or other improper conduct, were not in my opinion any longer eligible for the Magisterial office. Three or four of these have desired to know the reason of the omission, and have been informed* that in such cases it is not thought necessary to assign any. I can however give very sufficient reasons to the Secretary of State, if it shall at any time be required of me.

1836.
24 Jan.
Omission of
settlers from
commission.

I have, &c.,
RICHD. BOURKE.

SIR RICHARD BOURKE TO UNDER SECRETARY HAY.
(Despatch per ship Fortune.)

Government House, Sydney,
25th January, 1836.

Sir, 25 Jan.

In reply to your Letter of the 18th July last transmitting a letter from Dr. Jeanneret, herewith returned, upon the subject of which the Secretary of State desires my observations, I beg leave to state that I have already transmitted a similar application from Dr. Jeanneret with my Despatch to Mr. Secretary Spring Rice of the 24th March last. Although this will, no doubt, have reached your Department before the present Letter can do so, I think it as well to enclose a copy herewith, and to observe that, for the reason therein mentioned, it is impossible for me to take any step in the disposal of the case submitted by Dr. Jeanneret, without instructions from the Secretary of State.

I have, &c.,
RICHD. BOURKE.

[Enclosure.]

[This was a copy of the despatch, dated 24th March, 1835, and numbered 40; see page 702, volume XVII.]

SIR RICHARD BOURKE TO LORD GLENELG.

(Despatch No. 9, per ship Fortune: acknowledged by Lord Glenelg. 16th August, 1836.)

My Lord, Government House, 26 Janry., 1836. 26 Jan.

At the request of Mr. Potter Macqueen, I have the honor to transmit a letter addressed to me, in which that Gentleman lays claim, on the part of Messrs. Davis and Son, to an exemption from Quit Rent on 30,000 acres of Land granted to them by

Claim for
exemption
from quit rent
for H. Davis
and son.

* Note 76.

1836.
26 Jan.

Claim for
exemption
from quit rent
for H. Davis
and son.

order of the Secretary of State for the Colonies. The question has been maturely considered by the Governor and Executive Council, who have come to a conclusion adverse to the claim.

The whole question, as far as the Government is concerned turns upon Earl Bathurst's Despatch to Genl. Darling of the 28. Sept., 1825, a copy of which I have the honor to transmit. In that Despatch, His Lordship expressly states "that the Land in question can only be granted according to the principle and upon the conditions laid down in the Instructions lately issued to you on that subject." The Instructions referred to are those of the 18 May, 1825, which directed the Grantee to pay a Quit Rent of 5 per cent. per annum on the value of the Land to be fixed by the Commrs. The value of Land granted under this Regulation has been taken at 3s. 4d. per acre, upon which 5 per cent. gives a Quit Rent of 2d. per acre. At this rate it is proposed to charge Messrs. Davis.

I have, &c.,

RICHD. BOURKE.

[Enclosure No. 1.]

[A copy of T. P. Macqueen's letter is not available.]

[Enclosure No. 2.]

[This was a copy of Earl Bathurst's despatch to Governor Darling, dated 28th September, 1825; see page 61, volume XII.]

LORD GLENELG TO SIR RICHARD BOURKE.
(Despatch No. 100, per ship Strathfieldsaye.)

30 Jan.

Sir,

Downing Street, 30th January, 1836.

Correspondence
re female
immigrants.

I have the honour herewith to transmit to you Copies of a Correspondence, which has taken place between one of my Under Secretaries and the Chairman of the Committee by whom the Female Emigrants have been Selected and despatched to the Australian Colonies; by which you will perceive that the Report of the Committee offers some suggestions for the improvement of the present System of carrying out the Female Emigrants. Amongst those to which I have thought it right to accede, the most important is the proposal for increasing to £30 the Bounty at present granted to Heads of Families, for the purpose of assisting them to defray the expense of their Passage out; but this indulgence can only of course be granted in cases where the Emigrants may be selected and proceed to the Colony under arrangements effected either by the Committee or by Mr. J. D. Pinnock, the Colonial Agent for Emigration.

Increased
bounty for
heads of
families.

It appears that the Sums expended in furtherance of Emigration to New South Wales during the year 1835 have been as follows:—

1836.
30 Jan.

Expenditure on immigrants in 1835.

on Female Emig'n, £8,416; £20 Bounties, £820—£9,236; and that to meet this expenditure there was available for that year a sum of £19,831, as set forth in Lord Aberdeen's despatch to you of the 17th of February, 1835. A considerable Balance remains therefore from the Fund applicable to 1835; and, if to this sum be added £10,000 which it has been determined should be annually expended on Emigration to New South Wales, there will be an aggregate amount of £20,598, to be appropriated to the same service during 1836.

Balance available for immigration.

It has been settled that four Ships shall be despatched to the Australian Colonies during the present year with about 250 Females in each; the first to sail from London to Launceston on the 28th of April; the second from Cork to Sydney on the 26th of May; the third from London to Hobart Town on the 22nd of September; and the fourth from Ireland to Sydney at some subsequent date.

Ships to sail with female emigrants.

This arrangement, by which the vessels proceeding to Sydney are to sail from Ireland, has been made in consequence of the opinion expressed in your Despatch of the 8th of May, 1835. The entire selection of the Emigrants, who will be allowed to proceed to Sydney, will be entrusted to a Committee formed in Cork for that purpose, and to the Colonial Agent for Emigration.

The expense, attendant upon the passage of these Emigrants, will be defrayed in the same manner as heretofore; and 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 of their arrival in the Colony, until that of their obtaining suitable situations.

I have, &c.,

GLENELG.

[Enclosure No. 1.]

MR. EDWARD FORSTER TO UNDER SECRETARY HAY.

Emigration Committee Room,

Sir,

26 Birchin Lane, London, 5 December, 1835.

The Emigration Committee, having during the present year continued to carry on the important service entrusted to them by His Majesty's Government, have the honor to submit to you a review of their proceedings for the consideration of the Secretary of State.

Report by emigration committee in London.

In the course of this Year, four Ships have been dispatched under the direction of the Committee with female Emigrants to the Australian Colonies, vizt., the "Canton" for Sydney, which left Gravesend on the 1st of May; the "Charles Kerr" for Launceston in Van Diemen's Land, which sailed on the 9th July; and the

Ships sent with emigrants.

1836.
30 Jan.

"Boadicea" for Hobart Town, proceeded on the 1st October; and the Ship "James Pattison" for Cork, whence she sailed for Sydney on the 30th October.

The duty of the Committee as respects the latter Ship was confined to her selection, provisioning and general equipment, and to the appointment of a suitable Superintendent and Officers; the selection of the females who proceeded in her having, under your direction, been confided to a local Committee at Cork, aided by Lieut. Friend, R.N., H.M. Emigration Agent at that Port, and Mr. Pinnock, sent from the Colonial Office to superintend the business in Ireland.

In order to ascertain that the provisioning and equipment of the Ship in all its details were efficiently performed, the Committee instructed their Agent to proceed to Cork, and the following Copy of a letter received from Mr. Osborne, a Naval Surgeon of great experience, appointed to the duty of Surgeon-Superintendent of the Emigrants, contains a most satisfactory report of those arrangements.

"Sir, "Ship James Pattison, Cove, 27th October, 1835.

"Having joined the Ship James Pattison as Surgeon-Superintendent of the female Emigrants about to be embarked in that Vessel, I have very great satisfaction in being able to state to you, for the information of the Emigration Committee, that the Ship is fitted up in a very neat and comfortable manner; everything to promote the health and comfort of the Emigrants seems to have been most particularly attended to, and the different descriptions of provisions, which I have carefully inspected, are of the very best quality, and altogether she equals, if she does not excel, any Vessel I ever saw about to sail on the like important service.

"I have, &c.,

"JOHN OSBORNE, Surgeon-Superintendent.

"To Edward Forster, Esq., Chairman of the Emigration Committee, London."

The number of Individuals sent out in each Ship was as follows:—

Ship "Canton," of 510 tons register—

First.—Females to whom a free passage was granted, in accordance with the regulations acted upon by the Committee	171
Second.—Females either married, or above the age of 30, and therefore paying their own passage	18
Third.—Female Children under 15 years of age, and therefore paid for by their friends	13
Fourth.—Male Children (members of families on board) Ditto, Do.	23
Fifth.—Males accompanying their families	14

Total 239

Ship "Charles Kerr" of 463 tons register.—First Class, 156; Second ditto, 16; Third ditto, 15; Fourth ditto, 12; Fifth ditto, 30; Total, 229.

Ship "Boadicea" of 430 tons register.—First Class, 194; Second ditto, 22; Third Ditto, 8; Fourth ditto, 15; Fifth ditto, 26; Total, 265.

Selection of
females in
Ireland.

Report by
J. Osborne re
ship James
Pattison.

Emigrants per
ship Canton;

per ship
Charles Kerr;

and per ship
Boadicea.

Ship "James Pattison" of 513 tons.—First Class, 288; Second ditto, 8; Third ditto, 8; Fourth ditto, 5; Fifth ditto, 8; Total, 317.

1836.

30 Jan.

Making in the Aggregate of Individuals of both sexes sent out in the above named Vessels, of the First Class, 809; Second ditto, 64; Third ditto, 44; Fourth ditto, 55; Fifth ditto, 78; Grant Total in 1835, 1,050.

Total number of emigrants.

The Aggregate average age of the females, who proceeded by the three first named Ships, and to whom a free passage has been granted, was about 20 years.

Average age of females.

In the conduct of the responsible work committed to them, the Emigration Committee have been anxiously desirous to effect, in the most unexceptionable manner, the benevolent objects which His Majesty's Government had in view, and to realize the just expectations of the Colonists of Van Diemen's Land and New South Wales; the most vigilant enquiry into the character and circumstances of each Individual applicant for Emigration having been instituted, and the most scrupulous care observed in the admission of each case; and, notwithstanding the great difficulties which must always exist, and to which the Committee have on a former occasion adverted at length, they entertain a sanguine hope that the Emigrants of the present Year, while improving their own condition in life, will largely contribute to the general welfare of the Colonies for which they are destined. To the selection of one of the best adapted Ships in the Port of London on each occasion, to her proper ventilation, fittings, bedding, provisioning and general equipment, and to all which progressive experience has shewn to be conducive to the health, security and comfort of the Emigrants, every possible attention has been paid. In the Agreement for the hire of each Ship, a stipulation is made reserving to the Committee the power of approving or rejecting the Master and the principal Officers, and the Committee have in every instance required unequivocal testimonials of the moral character and professional competency of each individual officer; they have been more than ordinarily careful in consequence of the complaints transmitted to the Committee by Lieut. Sampson Marshall, R.N., the Superintendent of the Emigrants who proceeded last year in the Ship "David Scott," fully corroborated as these statements have been by Mr. Owen, the Master of that Ship, and some of the most respectable persons, who were passengers on board, of the highly culpable conduct of certain of the Officers; and they have also felt anxious to adopt any additional regulations calculated to guard against the repetition of such criminality.

Procedure and methods of committee.

The Committee in consequence addressed a statement to you some time since, and, under the sanction of the Secretary of State, bonds are now required of the Master and of the Chief and Second Mates of every Ship engaged by the Committee, in the several penal sums of £200, £100 and £50, for their moral and correct behaviour during the voyage; and this bond, duly executed and witness'd by the Surgeon-Superintendent on board, is now transmitted to the Governor by each Ship, that he may, should any infraction of the bonds take place, act on the orders of the Secretary of State by prosecuting the Offenders at once in the Colony, the penalties being made payable to the Colonial Treasurer in the respective Colonies; on the other hand, in order to stimulate to correct conduct and to the best possible performance of their duties, gratuities have been ordered, under the authority of your department, to be

Bonds required from masters and mates of emigrant ships.

Gratuities for masters and mates.

1836.
30 Jan.

paid to each of the Officers before named by the Governor in the Colony, should he have reason to believe they have well and faithfully performed their duty; under the double operation therefore of apprehension of the serious consequences to which they are thus subjected on the one hand, and the hope of pecuniary reward on the other, the Committee look with confidence that the reprehensible conduct, which was exhibited on board the "David Scott," will not recur. In the system of superintendence also, a material improvement has been adopted; the plan in former years of appointing a Superintendent and a Surgeon for the Separate duties of each Office was found to give rise on some occasions to disunion and altercation between these Officers, and to produce its natural fruits, complaint and disorder among the Emigrants on board; during the present year, the Committee have concentrated the authority on each occasion in one Gentleman, a Surgeon-Superintendent; to whom, independently of a free Cabin passage, a gratuity of £50 is now payable by the respective Governors, under the direction of the Secretary of State; but the payment of this gratuity depends entirely on the Governor's approbation of the Superintendent's conduct and management during the voyage; the Committee trust that these several measures will operate beneficially on the moral security and comfort of all the persons to whom they have reference.

The proportion of females having greatly increased from various parts of the United Kingdom, who have this year proceeded in the Committee's Ships (not one fifth of the whole having been selected from Candidates residing in the City of London and the entire County of Middlesex), and it being essential that they should be placed, during their sojourn in this City, under circumstances of entire moral security, the Committee engaged a convenient House at a moderate rent for that purpose, the bedding provided for the Voyage being temporarily used for the accommodation of the Emigrants; and the Committee have been gratified to find that their arrangements in this respect have given entire satisfaction to all the females who have availed themselves of the protection of the Committee while in London. It having been still found that a very considerable portion of the Emigrants are unable to provide sufficient clothing for so long a voyage, while their own health, as well as the health and comfort of all on board, is materially dependent on individual and general cleanliness, rendering a proper supply of clothing indispensable, this difficulty has been again met by the Agent of the Committee, who has supplied each Emigrant in need of such assistance with the deficient articles for clothing at wholesale prices, to be made up by themselves on board; and a liberal supply of cotton, etc., for knitting has been by him put on board each ship to furnish useful employment on the voyage. The Agent has also defrayed at his own cost the expences attendant on conveying such of the females to London as have been unable to pay their own passage; and, for this outlay, and also for the cost of the clothing, the females have in each case given their personal undertaking to reimburse the amount out of their earnings in the Colonies.

Through the Kindness of the "British and Foreign Bible Society" the "Prayer book and homily Society," the "Religious Tract Society" and the "British and Foreign Temperance Society" bibles, testaments, and suitable religious tracts have been obtained on the departure of each ship for the use of the Emigrants, and a supply of other moral and entertaining publications has also in each

Appointment
of surgeon-
superintendents.

House leased
at London for
accommodation
of emigrants.

Clothing
materials
for emigrants.

Conveyance
of females to
London.

Bibles, etc.,
for emigrants.

case been put on board, and the distribution confided to the Superintendent. Schools have also been directed by the Committee to be established on board their Ships generally, to the great advantage of the younger Emigrants and also to many of riper years.

1836.
30 Jan.

Since the Committee first undertook (in 1833) these duties, the number of Individuals they have been instrumental in sending to the Australian Colonies is as follows.

Emigrants sent to colonies by committee.

1833.—First Class, 451; Second Ditto, 15; Third ditto, 25; Fourth ditto, 14; Fifth ditto, 11. Total in 1833, 516.

1834.—First Class, 845; Second ditto, 66; Third ditto, 150; Fourth ditto, 77; Fifth ditto, 80. Total in 1834, 1,218.

1835.—First Class, 809; Second ditto, 64; Third ditto, 44; Fourth ditto, 55; Fifth ditto, 78. Total in 1835, 1,050.

Giving an *Aggregate* of persons, who have proceeded under the arrangements of the Committee since their Appointment, of the first class, 2,105; Second ditto, 145; Third ditto, 219; Fourth ditto, 146; Fifth ditto, 169. Grand Total, 2,784.

Of the general health on the passage, a tolerably correct estimate may be formed from the following statement of the deaths on board, which in the six ships despatched in 1833 and 1834 (it being obvious that no accounts of those sent out this year could, for some time yet, reach this country) and which conveyed out 1,734 Souls, only 11 deaths occurred, 5 adults and 6 children; most of these were cases of persons in indifferent health when they embarked, but who, being members of families on board, could not be separated from their connections, and yet under these circumstances the Aggregate average of mortality on the passage has only been about $\frac{5}{8}$ ths per cent.; five of these deaths, viz., 2 adults and 3 children, occurred on board the Ship *Duchess of Northumberland* from Ireland, which reduces the mortality in all the other ships to less than $\frac{3}{8}$ ths per Cent. The Committee deem it proper to advert to this important point as strongly illustrative of the general care taken of the Emigrants during their passage to the distant land of their adoption, and affording a full and satisfactory answer, if any were required, to the misstatements which have from time to time been put forth on this subject.

Health of emigrants during voyage.

The Committee have learned with peculiar satisfaction that the ground of complaint, which prevailed last year of the manner in which the Emigrants were received at Sydney, has been wholly removed, and are happy to advert to the excellent arrangements latterly made by the Colonial Government for the benefit of the females, who seek to better their condition in Australia, and especially to the highly laudable and valuable aid afforded them by the philanthropic Individuals who constitute the Ladies' Committee at Sydney. At Van Diemen's Land, all seems to be done, which the warmest friends of humanity can desire, for the security and welfare of these strangers.

Reception of emigrants in colony.

The Committee beg leave, before concluding their Report, to observe that the practical good arising from sending out a portion of moral and well-selected married persons, and their families in these Ships has been confirmed by experience; order, contentment, and general harmony have been promoted on board by the influence, which heads of families, when properly selected, exercise over not merely their own families, but the entire society throughout the Ship; proper care being of course taken to admit those families only, whose ascertained character is a guarantee for correct conduct.

Advantage in sending married persons with families.

1836.
30 Jan.

Proposed
increase of
family bounty.

Offer of
services by
committee.

Testimony
in favour of
J. Marshall.

Report
acknowledged.

Approval of
services of
committee.

Increase of
family bounty.

Ships to sail
for colony
with female
emigrants.

during the voyage, as well as usefulness in the Colonies. The Committee regret to say that frequent instances occur of persons of this description, who are desirous to emigrate but who cannot possibly defray the difference between the actual expence of their passage and the family bounty of £20; and the Committee would respectfully submit to you for the reconsideration of the Secretary of State, whether it would not be desirable to encrease the family bounty on behalf of families who may be ascertained to be proper objects for it.

The Committee avail themselves of this opportunity to renew the offer of their services to His Majesty's Government, as hitherto accepted in the superintendance of the important work to which the report relates.

In conclusion, The Committee feel it due to Mr. John Marshall, their active and persevering Agent, to repeat the testimony they have so often borne to the zeal, intelligence and uprightness, which he has continued to shew in all his transactions with them.

By Order of the Committee,

EDWARD FORSTER, Chairman.

[Enclosure No. 2.]

UNDER SECRETARY HAY TO MR. EDWARD FORSTER.

Sir,

Downing Street, 8th January, 1836.

I have received and laid before Lord Glenelg your letter of the 5th Ult., containing 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.

The Secretary of State desires me in the first place to repeat the assurance, conveyed to you by His Predecessors, of the great value which is attached by His Majesty's Government to the services of the Gentlemen composing Your Committee, and to express his satisfaction at receiving a renewed offer of their services to conduct the same important objects during the year 1836.

Lord Glenelg is disposed to avail himself at all times of any practicable suggestions which may be offered to him by the Committee, tending to improve the System of Emigration; and with that view I am directed to acquaint you that, adverting to the representation contained in your letter as to the beneficial influence which the presence of well conducted married People with their Families, on board the Vessels engaged for Females, has had upon the Emigrants in general; His Lordship has much pleasure in sanctioning, with the concurrence of the Lords Commissioners of the Treasury, an increase of the aid at present granted to Heads of Families of this description towards providing them a Passage to £30, in cases where the Emigrants shall be selected by the Committee, and proceeding in the Ships engaged by them for the conveyance of Female Emigrants.

His Lordship would recommend that four Ships should be despatched to the Australian Colonies during the present year, with about 250 Females in each; the first to sail from London to Launceston on the 28th of April; the second from Cork to Sydney on the 26th of May; the third from London to Hobart Town on the 22nd of September; and the last from Ireland to Sydney at some subsequent date. I am directed, however, by the Secretary of State to acquaint you that, with reference to the vessels which are proposed to sail from Ireland, His Lordship will only impose upon Your

Committee the task of equipping and engaging a proper vessel for the conveyance of the Emigrants. The selection of the Females, who may be allowed to proceed in them, as well as all the arrangements attendant upon their embarkation, will be entrusted to a Committee formed in Cork for that purpose, and to Mr. J. D. Pinnock the Colonial Agent for Emigration.

1836.
30 Jan.
Selection of females in Ireland.

Having Stated to you the views of Lord Glenelg on the subject of Emigration for the year 1836, I have only to request that Your Committee will take the necessary Steps for carrying them into execution.

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

SIR RICHARD BOURKE TO LORD GLENELG.
(Despatch No. 10, per ship Fortune.)

My Lord, Government House, 30 Jan., 1836.

At the request of the Judges of the Supreme Court of this Colony, I have the honor to transmit a letter addressed by them to Your Lordship, in which they solicit the appointment of a retiring allowance for any of their body, who from age or infirmity may become incapable of discharging the duties of his office. I have looked carefully through the letter and can attest the accuracy of the statements it contains relating to the circumstances of this Colony, and therefore very earnestly recommend the application to Your Lordship's consideration.

Application by judges for retiring allowance.

I have, &c.,
RICHD. BOURKE.

[Enclosure.]

[A copy of this letter, dated 30th January, 1836, will be found in a volume in series IV.]

LORD GLENELG TO SIR RICHARD BOURKE.
(Despatch No. 102, per ship Camden.)

Sir, Downing Street, 31st January, 1836.

31 Jan.

I have to acknowledge the receipt of your Despatch No. 61 of the 17th July last, enclosing a copy of a letter from the Colonial Secretary at Van Diemen's Land, reporting the loss of the "Neva" Convict Ship, bound to Sydney with Female Convicts from Ireland.

Despatch acknowledged.

I had already received a communication from Lieutt. Governor Arthur, with the report of a local Committee appointed to enquire into the circumstances attending the loss of that Vessel.

Reports re loss of ship Neva.

I lost no time in communicating that dispatch to the Secretary of State for the Home Department, in order that such measures might be adopted as the circumstances of the case might seem to require. I transmit, for your information, a copy of the letter

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31 Jan.

Reforms
proposed *re*
convict ships.

which has been received in reply, enclosing copies of a correspondence with the Board of Admiralty.

You will observe, from the enclosed correspondence, that it is the intention of His Majesty's Government to avoid sending out the Convict Ships at that period of the year, when they are exposed to greater danger of Shipwreck, and when the Convicts are more liable to disease during the Voyage from the effects of Cold; and I trust that the contemplated arrangement for supplying the Convict Ships with fresh Provisions at the Cape of Good Hope, or the Cape de Verde Islands, will further tend to prevent sickness amongst the Prisoners.

It may be proper to add that it is proposed to retain in Van Dieman's Land those Convicts, who have been recovered from the *Neva*.

I am, &c.,
GLENELG.

[Enclosure.]

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

Sir, Whitehall, 13th January, 1836.

Lord John Russell having been in communication with the Lords Commissioners of the Admiralty on the subject of the wreck of the Convict Ship "*Neva*," a Report upon which from the Lieutt. Governor of Van Diemen's Land accompanied your Letter of the 8th Ultimo, I am now directed to transmit to you Copies of the undermentioned Documents, vizt.

1. A Letter from this Department to Sir John Barrow, transmitting Colonel Arthur's Dispatch* and Enclosures.
2. A Letter from Mr. Wood, enclosing the Report of the Comptroller of Victualling and Transport Services.
3. A further Letter from this Department to Mr. Wood.
4. A Letter from Mr. Wood in reply.
5. A Copy of the assignment List of the "*Neva*" which has been obtained from Ireland.

Lord John Russell apprehends that these Papers will afford to Lord Glenelg all the information that can be procured upon this subject, and, in calling Lord Glenelg's attention more particularly to the condition, fitting, and equipment of the "*Neva*," as detailed in the Report from the Board of Admiralty, has no doubt his Lordship will feel satisfied that every precaution was taken, which human foresight could suggest, to guard against casualties, and that the calamitous loss of the Ship was the result of entire accident.

Lord John Russell desires me to add that he proposes to act, as far as practicable, upon the suggestion of the Admiralty as to the time of year at which Convict Ships should leave this Country; and he thinks it very desirable that the other proposition of their Lordships, with respect to these Vessels taking in fresh supplies at the Cape of Good Hope, should also be carried into effect, for facilitating which, Lord Glenelg may probably think it right to make some communication to the Colonial Authorities.

I am, &c.,
S. M. PHILLIPPS.

Transmission
of papers *re*
loss of ship
Neva.

Convict ships
to sail at
certain seasons
and re-victual
at Cape of
Good Hope.

[Sub-enclosure No. 1.]

1836.
31 Jan.

MR. F. MAULE TO SIR JOHN BARROW.

Sir, Whitehall, 17 Decr., 1835.

I am directed by Lord John Russell to transmit to you, for the information of the Lords Commrs. of the Admiralty, the Copy of a Letter from Mr. Hay inclosing the Copy of a Dispatch from the Lieut. Governor of Van Dieman's Land, in which he Reports the result of an enquiry* into the circumstances attending the loss of the Convict Ship *Neva*, which was entered into by a Committee assembled at Launceston for that purpose.

Transmission
of report *re* loss
of ship *Neva*.

This melancholy event, following as it does so closely upon the loss of the Convict Ship *George the Third*, is matter of deep regret to Lord John Russell as well as to every friend to humanity; and I am to desire that You will move their Lordships to institute an immediate and strict investigation into every circumstance connected with it.

Inquiry
requested.

I enclose a Copy of a Letter from Mr. Hume to Lord John Russell, which evinces the lively sympathy that is felt on this subject and contains allegations to which I request your attention.

I have, &c.,
F. MAULE.

[Sub-enclosure No. 2.]

MR. C. WOOD TO MR. F. MAULE.

Sir, Admiralty, 29 Decr., 1835.

Having laid before my Lords Commissioners of the Admiralty your letter of the 17th Inst., relative to the loss of the "*Neva*" Convict Ship, I am Commanded by their Lordships to acquaint you, for the information of Lord John Rusesll, that, previous to the receipt of your letter, my Lords had directed the Comptroller of Victualling and Transport Services to institute a minute enquiry into every circumstance relating to the *Neva* that could be ascertained in this Country, and also into the character of the Master, who Commanded her on her last unfortunate voyage; and, having subsequently referred to him the papers enclosed in your letter of the 17th, I transmit the report which he has made upon this subject.

Inquiry ordered
by admiralty.

It is obvious that this report must necessarily be confined to the state of the Vessel on leaving England, and the testimony contained in this document appears to my Lords to be most satisfactory and conclusive as to the excellent condition into which she had been put, and no less so as to the good character which the Master had obtained by his former Conduct.

Condition of
ship *Neva* and
character of
master.

It affords my Lords great satisfaction to observe that the Report of the Committee of Inquiry, appointed by the Lieut. Governor of Van Diemen's Land to inquire into this subject on the spot, fully confirms the result of the enquiry in this Country upon both these points; and it contains further an expression of opinion most favorable to the Conduct of the Master and the Crew both before and after the loss of the Vessel.

Report by
committee at
Launceston.

From all the information which is in the possession of my Lords, they can come to no other conclusion than that, however deeply they lament the melancholy catastrophe which has occurred, they can only attribute it to unavoidable accident.

I am, &c.,
C. WOOD.

* Note 77.

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31 Jan.

[Sub-enclosure No. 3.]

REPORT BY COMPTROLLER.

Admiralty, 23 December, 1835.

Report by
comptroller of
victualling
and transport
services *re*
chartering and
condition of
ship *Neva*.

THE Comptroller of Victualling and Transport services, having been directed by their Lordships "to enquire into all the circumstances that can throw light upon the cause of the loss of the *Neva*, Convict Ship, more particularly as to the extent of examination she underwent before she was taken up, and the character of the Master who took her out," and their Lordships having further referred to him a letter, with its enclosures, from the Secretary of State relative to the loss of the said Ship, begs to make the following report, previously remarking that, until the Master arrives in this Country, no further accounts can be furnished of the circumstances which led to the loss of the *Neva*, than those contained in the report transmitted from Van Dieman's Land by Lieut. Governor Arthur, and in the letter from the Master to his Owner already in their Lordships' possession.

On the 14th October, 1834, an order was received from the Treasury to cause Shipping to be provided for the reception of 150 Female Convicts and 50 Free Settlers to be embarked at Cork for New South Wales.

Notice was forthwith given to Lloyds in the usual manner that tenders would be received on the 21st October.

On the day appointed, Tenders were given in for six ships, viz.:

Ann of 339 tons, at £3 17s. pr. Ton; *Enchantress*, 401 tons, at £4 19s. 3d. pr. Ton; *William Bryan*, 311 tons, at £4 5s. pr. Ton; *George the Third*, 393 tons, at £4 pr. Ton; *Lloyds*, 402 tons, at £4 10s. pr. Ton; *Neva*, 331 tons, at £4 12s. 6d. per ton.

The *William Bryan* having been rejected on account of her not being capable of carrying the number of Prisoners required to be sent out, the "*Ann*" and "*Neva*" were ordered to be surveyed, it being usual to order more Vessels than one to be surveyed, altho' one only may be wanted, whenever any doubt exists as to the one tendered at the lowest price being found fit for the intended Service.

It may here be proper to observe that all merchant Vessels, whether required for Transports, Convict Ships, or for the conveyance of Public Stores, are invariably surveyed by the Resident Agent for Transports at Deptford, assisted by an experienced and skilful shipwright; and that no vessel is finally accepted and a contract entered into, until a satisfactory report has been received from that Officer.

On the 23rd of October a report was received that the "*Ann*" of 339 $\frac{3}{4}$ tons, the vessel first mentioned, built at Douglass in Nova Scotia in 1824 and having lately received new Wales, was fit for the service for which she had been tendered and was therefore accepted; but a report having been subsequently received on the 31st of October, signed by the Resident Agent and Inspecting Shipwright, stating "that, on opening the Ship abaft for the purpose of putting on a Poop, the upper Transom was found to be rotten, as well as some of the timbers, and that they had reason to suppose she was otherwise defective, and in their opinion was not fit to perform the voyage for which she was accepted, the Broker of the *Ann* was informed that, under these circumstances, she could not be

employed for the transportation of Convicts to Australia; and orders, which had before been suspended, were then renewed for surveying the Neva.

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It may here be right to state that the rejection of the Ann subsequently led to a claim from the Owner under professional advice for the sum of £500, as compensation for the Character of the Ship having been ruined by her rejection for the service for which she had been engaged; but the Solicitor of the Admiralty, to whom the case was referred, having stated "that the Owner was not in his opinion entitled to the compensation he sought," the claimant was informed that their Lordships did not consider him entitled to any consideration.

Report by
comptroller of
victualling
and transport
services re
chartering and
condition of
ship *Neva*.

The Papers relating to this claim are hereunto annexed, less for the purpose of shewing that great care and attention was paid to the Public interests on the occasion referred to, than for that of exhibiting impartial testimony as to the nature of the examination to which Convict Ships are subjected before they are finally accepted. The Owner, it will be observed, having stated in his Memorial "that the Surveyors proceeded to a most rigid investigation of the qualities and soundness of the Ship, during one part of which they bored with a gimlet of half an inch in diameter into the heart of her timbers in upwards of twenty places," a practise which is generally pursued; and every Ship taken up for some time past has invariably been docked for the purpose of examining her bottom.

On the 1st of November, a report was received signed by the Resident Agent and Inspecting Shipwright at Deptford, stating "that the *Neva* 331 $\frac{88}{34}$ Tons, built at Hull in 1813, and having received large repairs in the preceding year, was fit for the service for which she had been tendered, provided the Owners caused the works pointed out on Survey to be performed, as well as such others as might necessarily be required.

A communication to that effect was therefore made to the Broker on the 3rd of November, and the Ship accepted on the conditions proposed.

Such are the circumstances under which the "*Neva*" was accepted for conveyance of Female Convicts and Free Settlers to New South Wales.

Since the receipt of their Lordships' directions to investigate the case, and of the letter from the Secretary of State, transmitting a report from the Lieut. Governor of Van Diemen's Land of the circumstances attending the loss of the *Neva*, which were investigated by a Committee assembled at Launceston, the Resident Agent at Deptford has been directed to report in the most circumstantial manner the nature of the survey which was taken before the Ship was accepted.

It appears by that Officer's report that, in order to go fully into the qualities of the *Neva*, "it is necessary to refer back to June, 1833, when she underwent a large and thorough repair in Mr. Ives's Dock at Deptford; and that, during the time these repairs were in hand, she was visited and inspected by himself and the Inspecting Shipwright almost daily, for the purpose of seeing that everything that was necessary was shifted and made good; that, when taken out of Dock, she was fitted and proceeded to Sydney with 170 Male Convicts; that, on her return in 1834, She was again tendered to convey Female Convicts to the same destination, and taken into Dowson's Dock, where she was again thoroughly examined and

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Report by
comptroller of
victualling
and transport
services *re*
chartering and
condition of
ship *Neva*.

reported fit for the intended service, as before described; and that, when she quitted Deptford, she was in every respect fit and proper, both with respect to her Hull and equipments, to proceed to any part of the World and to receive on board any cargo."

By a letter from Mr. Ives annexed to the said report, it appears that the *Neva* was taken into his Dock in June, 1833, by desire of the Executors of her late Owner for the purpose of being put in a proper state of repair; that, on that occasion, it was found necessary to give her new Wales, Topsides, Gunwales, Bulwarks, Upper Deckwaterways, and part of a new Upper Deck; that, during the time she was under repair, she was tendered to carry Convicts to Sydney; that, when surveyed for that Service, some of the Ceiling was required to be removed for the purpose of examining the Timbers under the lower deck; that the ceiling was removed to the extent of 867 feet; that in effecting such removal it became necessary to strip off a part of the copper and sheathing, in order to drive out the Fastenings; that 400 feet of the Bottom was shifted under the Wales; and that, on a subsequent survey, it was required that the whole of the copper and sheathing should be entirely stripped, and the Bottom well caulked, which was done; that she was furnished with a great many new Timbers, side counter Timbers, Knight heads, Hawse pieces, Breast hooks, several new Beams, Apron, Stern head, and paul and Garrick Bitts; that the Bottom was felted, sheathed with one inch sheathing, and coppered; and that the ship was put in a proper state of repair.

By another letter annexed to the said report from Messrs. Dowson and Son, it further appears "that, when in Dock in November, 1834, previous to her late disastrous Voyage, she was coppered; that great part of her Upper Deck was new; that the Beams and Transoms were secured by Iron Knees and Riders; that she had a general and careful repair; and that she was in every respect fit to perform the voyage for which she was chartered."

It may here be necessary to add that scarcely a Convict Ship is tendered that is not found on survey to require alterations before she can be accepted.

Having thus described the the circumstances under which the "*Neva*" was engaged, the nature and extent of the repairs which she had recently undergone, and the opinion of the Builders by whom she was repaired, as to her fitness to proceed to any part of the world, which opinion is fully confirmed by her description in Lloyd's Register of Shipping, where she stands in the second section of the First Class, under the diphthong *Æ* (the meaning of which is that she was more than 10 years of age or would otherwise have been as fit to be classed under the letter A as any new Ship proceeding from the River), it becomes necessary to state that, in pursuing the investigation which has been ordered, it was judged advisable to call upon the Brokers of the *Neva* for any information which they might have it in their power to communicate, as well with regard to the state of the Ship, as to the character and qualifications of the Master.

From their report it appears that the *Neva* was built at Hull of British Oak for a merchant Ship and was constructed with fully as large a scantling of timbers and Planks, as Ships in general are of her tonnage; that she first came under their management as a Transport in January, 1828, and continued in that service until May, 1832, making voyages to North America, the West Indies and

Mediterranean, and conveying Provisions for H.M. Ships at Brazils, and in the Pacific, always giving entire satisfaction; that, upon being no longer required for the Transport Service, She was put into Mr. Ives's Dock at Deptford, to be thoroughly repaired; that, being tendered for a Convict Ship, she was frequently visited by the Deptford Officers while under repair; that the said repair was so effectual that everything, which did not appear to be perfectly sound, staunch and substantial, was replaced with new; that the Shipwright's Bill on that occasion amounted to £2,800, being more than the cost of the Hull of a new ship of similar tonnage; that she then proceeded with male Convicts to Sydney, from whence she returned by Manilla to Singapore, bringing home from the latter Port a valuable Cargo in the highest possible order; that she was then put into Messrs. Dowson's Dock at Limehouse, with instructions to do everything to her that might be found necessary to fit her for another voyage to Australia; that this was done and that she was also new coppered; that she was then tendered, surveyed and accepted for the service in the execution of which she was lost.

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Report by
comptroller of
victualling
and transport
services *re*
chartering and
condition of
ship *Neva*.

This report from the Brokers was accompanied by a letter from the Owner to them, fully confirming in detail all that is above stated by them, and adding "that, immediately before the *Neva's*" last voyage, her Dock Bill amounted to upwards of £500, and that, during her two outfits for Convict Service, she had two new lower Masts, and standing Rigging, a new windlass and Pump and three new Boats (having four in all), a fourth new chain cable, and an abundance of store of every description.

It further appears by a report, transmitted by the Secretary of the Committee of Management of Lloyd's Registry of British and Foreign Shipping, that the *Neva* was examined by their Surveyor who, in a report dated the 19th of November, 1834, stated, amongst other particulars, that she was built of English Oak, well squared, of good quality, and good workmanship; that her outside planking was English and African Oak, except the filling in strakes of the Topsides, which were Baltic pine all of good quality, and well wrought; that her fastenings were Copper Butt Bolts not through, but that she had so many Iron Riders and Knees below the Hold beams, the Bolts of which went right through the outside Plank, as to compensate for the Butt Bolts not going through the outside Plank; that she was sheathed with wood and Moate's Canvass in 1833, and coppered in 1834; that in 1833 she was stripped down two Strakes below the Wales, had a great number of new timbers and nearly entire new Bows, new upper piece of Stern new Breast hooks, some new Beams, all in and out fastenings of both upper and lower deck new, the bottom overhauled, caulked and sheathed over Canvass; that in 1834 she had 12 new iron riders, new dead wood knee and iron crutch, a considerable part of the Upper deck new, and some new ceiling; and finally that, from the very great repairs which the Ship received in 1826 principally in her bottom and in her upper part in 1833 as described above, and the additional fastenings put in in 1834, she was in a most efficient state of repair, fit for the conveyance of dry and perishable cargoes, and should be classed .E1.

The next point, upon which information is required, is the character and qualifications of the Master.

By a report from the Brokers, who were referred to on this point, it appears "that Mr. B. H. Peck, the Master of the *Neva*, first

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Report by
comptroller of
victualling
and transport
services *re*
character and
ability of
B. H. Peck.

became known to them, when Master of the *Silvia* Transport in July, 1829; that he continued Master of that ship until 1833, making voyages to Bermuda, North America, the Mediterranean, Brazils and South America, and always giving satisfaction to the King's Officers with whom he sailed; that, in March, 1833, he became Master of the '*Neva*' and carried out 170 Male Convicts, a Military Guard consisting of 31 Persons, together with three Women and three children, being more Adults (reckoning as usual, two children to a man or woman) than were on board when she was lost; that he landed at Sydney the same number, one man having died, and one child having been born; that he brought home the best certificates from the Governor of New South Wales and the Surgeon Superintendent of the *Neva*, upon which His Majesty's Government were pleased to grant him the usual Gratuity of £50 for his good conduct; that, as already stated, he proceeded to Manilla and Sincapore, and brought home a valuable cargo; that he is in the prime of life; and that, as they can attest his sobriety, steadiness, activity and constant attention to his duty, they refer to the foregoing statement of his services, which can be corroborated by documents in Office, to show his capacity as a Master of a Vessel both as a Seaman and a Navigator."

The owner of the "*Neva*," in his Letter above referred to, observes that, with regard to the capacity of the Master, he succeeded to the command of the Barque *Sylvia* on the decease of the former Master early in the year 1829, when on her voyage from Alexandria to London; Arriving safe, after a severe passage of four months; that he commanded the *Silvia*, when employed as a regular Transport in July, 1829, and remained in that service without meeting with any accident until 1833; that he then joined the "*Neva*" and performed the voyage to Sydney, Manilla and Sincapore as above mentioned; that, during the whole of the time that Mr. Peck has been in his employ, his conduct has been highly satisfactory; and that he has ever been spoken of as a careful trust-worthy Seaman and a good Navigator.

Persons carried
per ship *Neva*.

It may here be proper to state that, when the *Neva* went out to New South Wales in 1833, she carried besides her crew—

Male Convicts, 170; Military Guard, 31; Women, 3; Children (equal to Adults), 2. Total, 206.

And on the late occasion she carried—

Female Convicts, 150; Free Women, 9; Children, 55 equal to: Adults, 28. Total, 187.

The former, it has already been shown, were landed in perfect health with one exception, which clearly proves that the Ship was not crowded; and, as the latter were less in number, it is equally clear that there was ample accommodation for them.

Having thus reported the several details connected with the investigation, which their Lordships have been pleased to institute as well with regard to the examination of the *Neva* before she was taken up as to the opinion entertained by those most competent to judge of the qualifications of the Master, the following facts appear to be fully established, vizt.:

1st. That the greatest care and attention was shown to the public interests, when the *Neva* was taken up as a Convict Ship.

Summary of
report by
comptroller.

2ndly. That she was rigidly and carefully examined before she was accepted.

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3rdly. That she was in a sound and perfect state when she sailed from Deptford and fit to proceed to any part of the World.

Summary of report by comptroller.

4thly. That the Master has commanded ships employed in various parts of the World since the year 1829, and bears the Character of being a Sober, steady, attentive, careful, active, trustworthy and experienced Seaman, and a good Navigator; and

5thly. That, until the Master's return to this country, no further accounts can be furnished of the circumstances, which led to the loss of the "Neva," than those contained in the Report transmitted to the Secretary of State by the Lieut. Governor of Van Dieman's Land, and in the letter addressed by the Master to his owner, which is in their Lordships' possession.

[Sub-enclosure No. 4.]

MR. S. M. PHILLIPPS TO MR. C. WOOD.

Sir, Whitehall, 6 Jan., 1836.

I have laid before Lord John Russell Your letter of the 29 Ultimo with its accompanying Copy of a Report from the Comptroller of Victualling and Transport Service, on the subject of the Wreck of the Convict Ship Neva.

Letter acknowledged.

Lord John Russell desires me to inform you that he has carefully read this Report, and is glad to find that the Lords Commrs. of the Admiralty are satisfied that no precaution was omitted or neglected, and that the loss of the Ship was occasioned by unavoidable accident.

Satisfaction at report.

Lord John Russell requests the opinion of their Lordships, whether any alteration either in the nature and kind of Vessels employed in this service, or any restrictions as to the time of year at which they leave this Country or any directions to be given to Masters of Convict Ships as to their Conduct in approaching the land, would tend to the security of Convicts, Transported to the Australian Colonies.

Request for opinion *re* change in system for convict ships.

I am, &c.,
S. M. PHILLIPPS.

[Sub-enclosure No. 5.]

MR. C. WOOD TO MR. S. M. PHILLIPPS.

Sir, Admiralty, 9 January, 1836.

Having laid before my Lords Commissioners of the Admiralty your letter of the 6th instant respecting the wreck of the Convict Ship Neva, I am commanded by their Lordships to acquaint you, for the information of Lord John Russell, that the most perfectly safe, roomy and efficient Ships are engaged for the Convict Service, and no Complaint has been made of want of care on this head.

Satisfactory ships employed.

With regard to the second Query as to the Seasons at which it may be desirable that Convict Ships should not leave this Country, the months of November, December, January, and February are objectionable on account of the cold and damp which subjects the Convicts to Bowel Complaints and feverish attacks, and predisposes them to scurvy in the latter part of the Voyage. Ships have also

Months unsuitable for sailing of convict ships.

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Months
unsuitable for
sailing of
convict ships.

much difficulty in getting clear of the Channel in those months, and are consequently subject to damage and delay under exposure to bad weather. February is only less objectionable as a sailing month than the other three, from its being less difficult to get clear of the Channel, but a ship sailing in that month has two winters on the Voyage. The Voyage either to Van Dieman's Land or Sydney is usually one of upwards of four months, and few are made without decided symptoms of scurvy appearing on getting into the cold Southern Latitudes, the only remedy for which would be to permit the ships to call either at the Cape de Verd Islands or at the Cape of Good Hope for a day to obtain Fruit, Vegetables and Fresh Supplies. The detention could only be a few hours beyond the actual stay of the ship, and the advantage to the Convicts great.

Instructions
for masters.

Their Lordships are not aware that any unusual precaution is necessary in approaching their places of destination, but would caution the Masters not to go into higher Southern Latitudes than is found necessary to obtain Westerly winds, or avoid the Cold and damp which is invariably found detrimental to health after so long a Voyage.

I am, &c.,
C. Wood.

LORD GLENELG TO SIR RICHARD BOURKE.
(Despatch No. 103, per ship Strathfieldsaye.)

Sir, Downing Street, 31st January, 1836.

With reference to my Despatch No. 81 of the 30th of November last, on the subject of the Ecclesiastical Establishment of New South Wales, I have to request that it may be clearly understood that it is the intention of His Majesty's Government, that the rule, suggested in Your Despatch of the 30th of September, 1833, "that 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," should apply only to the regulated Stipends of the Clergy; and that it should not, as a matter of course, extend to House Rent, Forage, and other travelling allowances, or any other extra payment or allowance, which has been granted for the performance of extra duties, or in consideration of peculiar circumstances, which will no longer attach to the situation of the respective Chaplains when the new system shall be carried into operation.

I am, &c.,
GLENELG.

SIR RICHARD BOURKE TO LORD GLENELG.
(Despatch marked "Separate." per ship Fortune.)

My Lord, Government House, 31 Janry., 1836.

Referring to my Despatch of the 26 ulto. marked "Separate," covering a List of Persons from amongst whom it is proposed to grant the Governor of New South Wales authority to

Instructions
re stipends of
clergy already
appointed.

Additional
names suggested
as members of
legislative
assembly.

select twelve to sit in the proposed Legislative Assembly, I have the honor to request that the following may be added to that List, vizt.:—

1836.
31 Jan.

Additional names suggested as members of legislative assembly.

The Surveyor General (in right of office); William Macarthur, Esq., Camden; John Edge Manning, Esq., Registrar of the Supreme Court; Robert Futter, Esq., Lumley; Alexander Warren, Esq., Sydney.

I have, &c.,

RICHD. BOURKE.

LORD GLENELG TO SIR RICHARD BOURKE.

(Despatch No. 104, per ship Strathfieldsaye.)

Sir,

Downing Street, 1st February, 1836.

1 Feb.

I have had under my consideration your Despatch No. 58 of the 26th June last, enclosing a copy of certain Regulations,* which were promulgated by your Government on the 9th May last for the Assignment of Convict Servants in New South Wales.

Despatch acknowledged.

It appears to me, as far as I am able to judge, that there were good reasons for the adoption of these Regulations. But I should, at all events, be prepared to rely on your judgment, respecting a measure, of which you speak in terms of strong approbation, and which, as you state, you have not ventured to deal with until after much delay and after maturely weighing the suggestions of various parties.

Approval of regulations re assigned convicts.

Considering, however, the importance of the subject and the interests which it affects, I should wish to receive from you a full report upon the practical working of the new system, as soon as you shall have had sufficient opportunity of forming an accurate judgement upon it.

Report required re new system.

I approve of the appointment of Mr. Slade to be "Commissioner for the Assignment of Convict Servants" with an addition of £150 a year to his present Salary.

Approval of appointment of G. M. Slade.

I take this opportunity of transmitting to you a copy of a communication, which I have received from the Governor of the Australian Agricultural Company, in which, with reference to the arrangement which forms the subject of this Despatch, he presses upon the consideration of His Majesty's Government the claim of the Company to a due share in the distribution of Convict labour. In my despatch of the 19th August last, I have already called your attention to this subject. No allusion is made in your Despatch to the manner in which you propose to deal with the Company under the new arrangement. It is out of the question to apply, in their full extent, to the Company

Claim by A.A. company for assigned convicts.

* Note 37.

1836.
1 Feb.

the Rules framed for the cases of private Individuals, and thus to recognise a claim on their part for a number of Convicts proportioned to the full scale of their Grant, particularly considering how small a portion of their Land is brought into a state of actual cultivation.

Convicts to be
assigned to
A.A. company.

Under all the circumstances of the case, I am induced to authorise you to assign to the Company, as soon as may be practicable, One hundred and fifty Convicts, in addition to the number of Three hundred, which they appear to have had at the date of their last Reports from the Colony; and to assign to them Fifty more, when it shall appear that their operations require such an augmentation, and when it may be possible to assign this further number without prejudice to other Interests in the Colony.

I am, &c.,
GLENELG.

[Enclosure.]

MR. JOHN SMITH TO LORD GLENELG.

Australian Agricultural Company,

My Lord, 12 King's Arms Yard, 30 Novr., 1835.

On the part of the Directors of the Australian Agricultural Company, I beg to express my grateful thanks to Your Lordship for the patient attention wh. you were pleased to give to our representation in reference to the late order, issued by the Govr. of New S. Wales for the future Distribution of Convicts in that Colony.

Doubts *re*
application to
A.A. company
of order *re*
assigned
convicts.

This order, whilst it gives a defined number of Convicts to the holders of Land in proportion to the number of Acres they possess, limiting however the largest possessor to a number not exceeding 70, makes no mention whatever of the Australian Agricultural Company; and we are therefore under some anxiety to ascertain from your Lordship the manner in which the Regulations in question are intended to operate in regard to the Company, and what Your Lordship may justify us in considering as our relative rights, the general nature of which Your Lordship was pleased to recognise in your last Dispatch of the 19th August.

Want of
assigned
convicts by
A.A. company.

Your Lordship is aware that, for nearly two years, scarcely any Convicts have been assigned to the Company's Agricultural Establt., although the most pressing applications for them have been made to the Govr. both by Sir E. Parry late Commissioner, and by our present Commr. Lt. Col. Dumaresq; and, although the Govr. was informed by them that, by Tickets of Leave and otherwise, the number of our Convict Servants was daily diminishing, whilst the number of our Sheep had largely increased, requiring for their care a proportionate share of Shepherds; so great has been our want of Agricultural Servants, that it was doubted last year whether we shd. be able to spare sufficient hands for the raising our accustomed supply of wheat for the sustenance of our people; and it was only effected (and that imperfectly) by economising labour in every possible way.

It appears to the Directors that the late order of the Governor might be so understood and carried into execution as to operate greatly to the detriment, if not to the total ruin, of the Australian Agricultural Company.

An Individual Land holder of the highest Class has, under this new Regulation, a claim for 70 Convicts, supposing the Governor to have a sufficient number to make the Assignment; whereas it does not appear that the Company, although it possesses a Charter, and although it was formed to relieve the Govt. from a heavy pressure of expense in maintaining Convicts, have, under this order, any recognised rights at all. The Governor may say, and probably will say, to our Commr. on his applying for Convicts, "You have already 300 Convicts, whereas no individual Settler has more than 70; many Settlers have not so many; I do not therefore feel justified in granting you any more at present."

1836.
1 Feb.

Want of recognition of rights of A.A. company to assigned convicts.

Our Commr. has no other remedy in such case but to refer the affair to Your Lordship, which creates a *ruinous* delay of nearly a year and a half.

In your Lordship's Dispatch of the 19th August, *written before the receipt of the order above referred to*, you have desired that the Company should receive the full number of Assigned Servants to which they are entitled, and which it may be practicable to grant to them, without prejudice to the just demands of Individuals.

Previous instructions re assigned convicts.

Under the late order, who can determine what are the just demands of Individual Land owners in reference to the Company? And when such opposite Interests come before the Governor for his decision, he might find it difficult to decide in favor of the Company's claim when importuned by a great number of Individuals.

Difficulty in deciding re company's claim.

The Directors feel perfectly satisfied that Your Lordship, in protecting the just demands of the Settlers, will equally protect the just rights of the Company under their Charter; and we therefore submit to Your Lordship that it wd. be only equitable that the Govt. at home should fix the limit of the Convicts for the Company, in the same manner as the Govr. has regulated the claims of Individuals in the Colony.

Request for fixed number of assigned convicts.

The Company received their Charter from the King by the medium of Earl Bathurst; and it seems but fair that an important regulation, on which their future prosperity or destruction depends, should proceed from the same authority. The Directors have reason to believe that no Individual in the Colony has 50,000 acres; the Austrn. Agricul'l Company have therefore more than 20 times as much Land as the largest Landholder who is allowed under the new Regulation to have 70 Convicts; on the same principle, the limit of the Company ought not to be less than 1,400 Convicts. In the course of a few years, it is highly probable that a larger number will be employed by the Company; at present, the Company's Agricultural cultivation and increased Flocks require an additional supply of from 100 to 120 Convicts, annually, beyond the number the Company lose by Tickets of Leave, etc., etc., in the same period of time.

Limit proposed for A.A. company.

Additional convicts required annually.

All that has been said is stated under the supposition that the Governor will be supplied with a sufficient number of Convicts to assign 70 to the large Individual Settler, and 1,400 to the Company. If this requisite number should fall short, each must be rateably diminished.

The proposition therefore, which we have to submit, is that your Lordship will be pleased, in a communication to the Colonial Govt., to define the relative number of Convicts, to which the Austr.

1836.

1 Feb.

Request for
instructions
re convicts for
A.A. company.

Agricul. Company are entitled, assuming that the order of the Colonial Govt., which we have brought under Your Lordship's notice, has been confirmed by the Home Govt. And, as the Company's want of Convicts is *very pressing*, we trust that Your Lordship's Instructions will have immediate operation, as far, and as soon as, the number of Convicts at the disposal of the Colonial Govt. may admit; the want of at least 150 Convicts being now most seriously felt, and, without the earliest assignment of which, we anticipate the most serious detriment to our affairs.

I have, &c.,

JOHN SMITH, GOVERNOR.

SIR RICHARD BOURKE TO UNDER SECRETARY HAY.

(Despatch per ship Strathfieldsaye.)

Government House, Sydney,

My dear Sir,

New South Wales, 1 February, 1836.

You will oblige me very much by sending the accompanying letters through the Post to my son, to whom they are addressed.

You will be glad to learn that the Colony continues to advance with surprizing rapidity. We have just celebrated the 48th anniversary from its foundation by opening a large stone Bridge,* which has been constructed by convict labor at the small expense to the Colony of one thousand Pounds. Such a structure in England would have cost seven thousands. The fete went off uncommonly well, and there were exhibited a gallant shew of well dressed Dames and Gentlemen, of Equipages and Horses, quite surprizing in such a Place. The samples of valuable Colonial Produce, which passed over the Bridge, explained the mystery, and the most prudent were satisfied that, whilst the Colony exports the finest wool in large quantities and can produce the wine, oil, fruits and grains which were exhibited, it may import the luxuries of Europe without the guilt of Extravagance.

The great subject of interest amongst our Colonial Politicians at this time is the New Colonial Act. I do most earnestly entreat that it may be taken up this Session and that the New South Wales Act be brought into operation early in the ensuing year. In a country containing now at least 50,000 free Inhabitants with a press totally unrestricted, a prevailing intelligence, encreasing wealth and a quick temperament, it is not possible to govern with advantage by means of such a Council as is here established. There must be something broader and surer whereon to rest the important measures that are annually discussed. The total income of the Colony, including sales of Land, amounted, as I remember (I have not the Return at hand), to £273,000. Surely the Expenditure of such a sum requires not only due deliberation, but the consent and approbation of the People from whom

* Note 78.

Letter for
transmission
to son.

Opening of
Lansdowne
bridge.

Necessity for
reform of
legislative
council.

it is collected, expressed under some form of Representation. I trust therefore that, from the data furnished by different hands from hence, the Minister will prepare a measure which, if it do not reach the full extent of British Freedom, will at least lay the foundation in the Colony of free Institutions.

1836.
1 Feb.

I hope and trust there may be no extension of the present act for a year. I don't know how I can meet such a Council as the present in 1837. The new Act should set the Jury Question at rest by decisive Enactment, ordaining that Emancipists either shall or shall not sit on Juries. I have already given my opinion for the affirmative.

Objections to extension of present act.

Necessity for decision re emancipists as jurors.

Major Mitchell, as you are aware, did not finish the course of the Darling on his last exploration. I am just sending him* out again to finish, and return to the Colony through the country lying between the left Bank of the Murray and Morumbidgee and the Snowy Range. It is, I believe, a fine pastoral country, and it will be highly useful to know it. The Surveyor-General is a difficult man to manage, and I fear I am rather *en mauvaise odeur* with him at present. But I do my best to keep him and others in good humour, yet within decent bounds.

Intended exploration by T. L. Mitchell.

Relations with T. L. Mitchell.

I am, &c.,

RICHD. BOURKE.

P.S.—I should have observed that the dry weather continues, and fears are entertained for the maize crop, the wheat having been much below an average. I do not dread a famine, but, unless wheat comes in from the Bengal as I expect, and flour from the United States, Bread will be very dear, and meat also. Contracts are double the rate of last year.

Continuance of drought.

LORD GLENELG TO SIR RICHARD BOURKE.
(Despatch No. 105, per ship Strathfieldsaye.)

Sir,

Downing Street, 2d February, 1836.

2 Feb.

I have the honor to acknowledge the receipt of your Despatch No. 63 of the 19th July last, reporting the departure of Major Mitchell on an Expedition† into the Interior for the purpose of ascertaining the course of the River Darling.

Despatch acknowledged.

I have referred, for the consideration of the Lords Commissioners of the Treasury, the question whether the Expense of this Expedition should be defrayed, like all former ones, out of the Military Chest, or whether it should form a Charge upon the Colonial Treasury. Their Lordships have informed me in reply that, under the existing arrangements relating to the Expenditure of the different branches of the Public Service in New

Expenditure on expedition of T. L. Mitchell.

* Note 79.

† Note 10.

1836.

2 Feb.

Expenses to be met from land revenue.

South Wales, there does not appear to their Lordships to be any ground for allowing the expense of the Expedition in question to remain as a charge upon the Funds of the Military Chest. I have, therefore, to desire that you will cause the value of the Supplies furnished by the Commissariat, with the amount of any payments made by that Department for this service, to be reimbursed to the Military Chest from the Colonial Land Revenue Fund, upon which the Board of Treasury conceive that expenses of this description would be properly chargeable. I am, &c.,

GLENELG.

SIR RICHARD BOURKE TO LORD GLENELG.
(Despatch No. 16, per ship Fortune.)

2 Feb.

My Lord,

Government House, 3 Feby., 1836.

Additional clause proposed in new New South Wales bill.

Referring to my Despatch which covered the Draft of a Bill proposed to be submitted to Parliament to replace the present N. S. Wales act, I have the honor to transmit a further clause, also drawn by the Chief Justice and which I request may be considered a part of such Bill.

Temporary continuance of jurv act.

The object is to obviate the inconvenience, which might otherwise arise from there being no Jury Law in force in the Colony for an interval between the expiration of the present N.S.W. act and the passing of a new Jury Law by the Legislative Assembly under the new Act. The clause has no reference to the question of qualification, which, for the reasons before given, I earnestly hope the Act of Parliament will conclusively determine.

I take the present opportunity of recurring to one or two other provisions, in which I am inclined to suggest some change.

Reasons for suggesting list for nominee members of legislative assembly.

In proposing that those Members of the Legislative Assembly, who are summoned by the Governor, should be selected from a larger body of Persons named by the King, I was chiefly influenced by the partial analogy, which this system bears to the existing one.* I fear, however, that the restriction of the Governor's choice may occasionally prove very inconvenient. Many eligible Persons may very suddenly assume that position, which fits them for the appointment either by immigration or change of residence, or by taking a new and more prominent part in Society, whilst on the other hand a large proportion of the Nominees of His Majesty may be elected by the People, and others may be unwilling to endanger the success of their private pursuits by a frequent absence from their agricultural establishments. From these and other unforeseen and sudden causes, the choice of the Governor from a very extensive List may be at times very limited, while many superior candidates may present

* Note 80.

themselves, whose fitness was concealed by circumstances at the time of the List being framed. On this ground, I am inclined to think it may be better to leave the choice of the Governor unrestricted, or subject to this condition only, that four of the Persons eligible in right of office should be nominated by him.

1836.
3 Feb.
Proposal *re*
nominee
members.

One other question, I beg leave to submit, relates to the admission of Barristers in the Supreme Court. The present Draft confines the practice of a Barrister to those who have been called to the English or Irish Bar. Such a restriction can only be justified by the absence of sufficient Education in this Colony. Without being fully prepared to say that a Colonial Education will be sufficient for a person of very high pretensions, I must with pleasure admit that a great improvement is taking place in the Colonial Schools, with which I was forcibly struck on lately attending an examination of the Pupils at the Sydney College. I would therefore propose that the Judges be authorized to call Persons to this Bar under such Rules as they shall make for the purpose, when approved by His Majesty as is required for other Rules of Court.

Admission of
barristers in
supreme court.

Improvement
in colonial
education.

Proposed rule
re admission
of barristers.

I have, &c.,

RICHD. BOURKE.

[Enclosure.]

[A copy of this paper will be found in a volume in series IV.]

LORD GLENELG TO SIR RICHARD BOURKE.

(Despatch No. 106, per ship *Strathfieldsaye*; acknowledged by Sir Richard Bourke, 10th September, 1836.)

Sir, Downing Street, 5th February, 1836.

5 Feb.

I beg to call your attention to the Communication addressed to you by direction of Mr. Spring Rice on the 4th of September, 1834, enclosing a Paper, which had been received from the "Ladies of the British Society," containing various suggestions which they conceived might be usefully adopted in New South Wales for improving the moral condition of the Female Convicts. My attention has recently been called to the subject by Mrs. Fry,* with whose benevolent and successful exertions for the instruction and improvement of female prisoners in this Country, you are doubtless well acquainted. I am anxious to give every countenance to suggestions proceeding from such a Quarter; and I feel confident that you will concur with me in the desire to carry into effect these suggestions, so far as they shall appear to you practicable, and have not already been adopted. I should particularly wish to be informed what success may have resulted from the formation of the Committee of

Proposals *re*
reform of
female convicts.

1836.
5 Feb.

Ladies referred to in the Report of the Board of Management of the Female Factory at Paramatta, which accompanied Sir R. Darling's Dispatch of the 18th of February, 1829, and whether such a Committee continues in active operation.

I am, &c.,
GLENELG.

SIR RICHARD BOURKE TO LORD GLENELG.

(Despatch No. 17, per ship City of Edinburgh; acknowledged by lord Glenelg, 18th September, 1836.)

10 Feb.

My Lord, Government House, 10 Feby., 1836.

Previous proposals re introduction of immigrants.

In my Despatch of the 14 October last, No. 102, I brought under your Lordship's notice the arrangements proposed to be made from hence for the introduction of useful Emigrants from the United Kingdom. One of the measures proposed in that Despatch contemplated the Employment of some of the Surgeons of the Navy, who came out here as Superintendents of Prison Ships in the capacity of agents to seek, engage and bring out Emigrants of the descriptions most required in New South Wales.

Nomination of D. Boyter as agent for emigrants from Scotland.

In pursuance of this plan, I have directed David Boyter, Esq., to report himself to Your Lordship, considering him a fit person to be employed in procuring Emigrants from the Eastern parts of Scotland. He is furnished with instructions, which he is directed to lay before Your Lordship and to await your final orders. Those Instructions embrace, as I apprehend, most of the material points connected with his employment. He is instructed to apply to Your Lordship for an order on the Colonial Agent for such sums of money, as it may be found necessary to advance previously to his Embarkation with the Emigrants for this Colony, the amount of which will be paid into the Military Chest here.

Approval required from admiralty re employment of naval surgeons.

It will, I apprehend, be necessary to obtain the consent of the Lords of the Admiralty to the Employment of Naval officers on this service; and I earnestly hope that to this consent may be added the encouragement, which those Officers will derive from being permitted to reckon the time thus employed when claiming the retired allowance.

In the Despatch to which I have referred, I have given at length my reasons for considering the employment of Naval Surgeons in the manner proposed as likely to prove beneficial to the Colony; and I have therefore to hope Your Lordship will be pleased to approve of the arrangement.

I have, &c.,
RICHD. BOURKE.

LORD GLENELG TO SIR RICHARD BOURKE.
(Despatch No. 108, per ship Camden.)

1836.
• 13 Feb.

Sir, Downing Street, 13th February, 1836.

A letter has been received at this Department from Mr. N. L. Kentish, late Assistant Surveyor at New South Wales, enclosing an address to the King, and I have to request that you will acquaint Mr. Kentish that his address has been laid before His Majesty.

Address from
N. L. Kentish
acknowledged.

I am, &c.,
GLENELG.

LORD GLENELG TO SIR RICHARD BOURKE.
(Despatch No. 109, per ship Camden.)

Sir, Downing Street, 14th February, 1836.

14 Feb.

My attention has been called by the Archdeacon of New South Wales to the claims of the Chaplains in the Colony for compensation in lieu of the grants of Land offered to them and their Families by my Predecessor Sir George Murray, and of which the subsequent alteration in the Land System has deprived them.

Claims of
chaplains to
compensation
in lieu of land
grants.

I find that, in consequence of the joint representation of the Governor and of the Archdeacon as to the inadequacy of the Salaries of the Chaplains in New South Wales, Sir George Murray in his Despatch No. 113 of the 25th May, 1829, to Lieutt. General Darling acceded to the following arrangement.

It was decided that each Chaplain, in addition to his ordinary emoluments, should have granted to him "an allotment of Land, as a future provision for his widow and such other Members of his family as should not, at the time of his decease, have become independent of his support." Of such land he was to receive 1,280 Acres at the end of five years, and a like quantity at the end of ten years.

Land grants
authorised for
chaplains and
their families.

It was further provided that each son of a Chaplain should have 1,920 Acres of Land on reaching the age of 19 years, and each daughter 1,280 acres at the Age of 18.

In the year 1831, the whole system of granting Lands was abolished, and the arrangement thus sanctioned by Sir George Murray was consequently superseded. On that occasion, Lord Ripon,* in a Despatch No. 26 of 22nd March, 1831, proposed that, in the cases of those clergymen who had already obtained Land under that arrangement, or who had gone out on the faith of it, Land to the amount of the first grant of 1,280 acres should be sold, and that, out of the proceeds, the sum of £320, calculated at the minimum price of 5s. an acre, should be vested in the hands of Trustees to form a Fund for the benefit of their respective Families.

Compensation
ordered for
chaplains on
abolition of
land grant
system.

* Note 57.

1836.
14 Feb.

Claim of
chaplains for
compensation
for second
intended land
grant.

Assuming this suggestion to have been acted on, The only question which remains for consideration is the claim for compensation in respect of the second Grant to the Chaplains personally at the end of ten years, and the Grants promised to their children on arriving at certain specified ages. The whole of these grants were clearly intended by Sir George Murray in lieu of an augmentation of Salary to the Chaplains, and I admit the claims of such of the Chaplains as were included in the arrangement to fair and adequate compensation for the prospective advantages offered to them and to their children. In estimating the amount of this compensation, it is obviously necessary to make a distinction between a right, which has actually accrued, and one which is only future and therefore contingent. None of the Chaplains could at present be in a condition to claim the 2nd Grant of 1,280 acres, as the period of 10 years has not yet expired since the receipt of Sir George Murray's Despatch; but there may probably be children of some of the Chaplains, who have attained the specified age, and who would now but for the general alteration in the system be in a condition to claim the fulfillment of the expectation held out to their Fathers by Sir G. Murray. Again there may be children so young that a long period must have elapsed before they could have derived any benefit from the arrangement. Under these circumstances, it is impossible to fix in this Country the precise amount of compensation which ought to be given to each Chaplain; and I can only lay down the principle that they are entitled to reasonable compensation in lieu of all the advantages which were held out to them and to their children.

Admission
of claim for
compensation.

The assessment in each case can only be satisfactorily made in the Colony; and, as I think it desirable that all future claims on this account should be extinguished, I have to request that you will bring the subject before the Council for its consideration with a view to the apportionment in each case of a sum of money to be charged on the Land Revenue of the Colony in lieu of all present and future claims on the part of the Chaplains or their Families founded on Sir Geo. Murray's Despatch.

Claims to be
assessed by
council.

Chaplains
entitled to
compensation.

It only remains for me to state who are the Chaplains who appear to me entitled to the benefit of this arrangement. With reference to the Grants to the Chaplains personally at the end of 5 and 10 years, it was expressly provided by Sir Geo. Murray that those Chaplains (7 in number) who had commuted their Glebes for the allowance of £100 per annum should not benefit by the additional grants, unless they should resign such allowances. Of these 7, I find that two only, Messrs. Fulton and

Reddell, complied with this condition, and that the remaining five continue to receive the allowance of £100 a year. No claim therefore can exist on the part of those 5 Gentlemen with respect to the Grants of 1,280 acres each at the periods referred to. I do not however find that the same condition was attached to the Grants to their children, and this part of the arrangement appears to have been alike applicable to all. Subject to the exception referred to above, I think that all the Chaplains holding their appointments in the Colony at the time when Sir Geo. Murray's arrangement was promulgated, as well as any who received their appoint't while that arrangement continued in force, are entitled to the compensation which I have proposed should be allotted to them. It is scarcely necessary to add that no Clergyman subsequently appointed can be considered as having any claim of this nature.

1836.
14 Feb.

Chaplains
entitled to
compensation.

I observe it stated in your Blue Book that each Chaplain has two men clothed and rationed by the Government for the purpose of cultivating his Glebe. Sir Geo. Murray sanctioned the assignment of one or two Convicts to each Clergyman, but "on the usual conditions," which of course meant that they should be clothed and fed in the usual manner by their Employers, and I see no reason for charging the Government with this expense.

Convicts
assigned to
chaplains.

I am, &c.,

GLENELG.

LORD GLENELG TO SIR RICHARD BOURKE.
(Despatch No. 110, per ship Lord Goderich.)

Sir, Downing Street, 15 February, 1836.

15 Feb.

I have received your Despatch No. 68 of the 24th of July last, reporting the measures which you had taken, and stating the arrangements which you proposed to adopt, in consequence of the Instructions conveyed to you by Lord Aberdeen, with reference to the treatment of Convicts destined to be kept at hard labour on the Roads and Public Works.

Despatch
acknowledged.

I have communicated your Despatch to the Secretary of State for the Home Department and to the Lords Commissioners of the Treasury; and I have the pleasure to acquaint you that His Majesty's Government approve of your arrangements. At the same time, I cannot too strongly impress upon you the necessity of using every endeavour to limit as much as possible the expenses attendant on this change of system.

Approval of
system *re*
convicts on
public works.

I have, &c.,

GLENELG.

1836.
22 Feb.

SIR RICHARD BOURKE TO LORD GLENELG.
(Despatch No. 20, per ship City of Edinburgh.)

My Lord, Government House, 22 Feby., 1836.

Report re
evasion of
navigation law
by barque
Rose in New
Zealand.

At the request of Mr. Busby, British Resident at New Zealand, I have the honor to transmit a copy of a Letter in which he reports certain facts connected with a dispute, which called for his interference, between the officers and crew of the Barque Rose of Halifax (in Nova Scotia). It appears that the British Subject, whose name was put forth as Master to satisfy the conditions of the Navigation Law, was serving in a subordinate capacity, the acting and only efficient Master being an American. This circumstance Mr. Busby desires to bring under the notice of His Majesty's Government with a view to the adoption of some measure to check such an evasion of the Law.

Mr. Busby also suggests that a copy of his letter be sent to Nova Scotia, so as to render his testimony to the facts it details as available in favor of the Crew of the Rose, as the case will admit.

I have, &c.,

RICHD. BOURKE.

[Enclosure.]

[A copy of this letter will be found in a volume in series III.]

SIR RICHARD BOURKE TO LORD GLENELG.

(Despatch No. 21, per ship City of Edinburgh: acknowledged by lord Glenelg. 17th August, 1836.)

23 Feb.

My Lord, Government House, 23 Feby., 1836.

Transmission
of petition from
C. W. Roemer.

I have the honor to transmit a Petition from Charles William Roemer, a Native of Germany residing in Sydney, praying that he may be made a denizen of this Colony.

Having reason to believe Mr. Roemer a proper Person to receive this privilege, I have to request your Lordship's authority, rendered necessary by a Colonial Law,* for my issuing the necessary Document.

I have, &c.,

RICHD. BOURKE.

[Enclosure.]

THE Humble Petition of Charles William Roemer, of Sydney in His Majesty's Colony of New South Wales, an Emigrant Settler,

To His Majesty's Principal Secretary of State for the Colonial Department.

Humbly Sheweth,

1. That your Petitioner is a native of Leipsic in Germany. but was many Years resident in the Kingdom of Great Britain as an Importer of German Wool; and, on the third day of March in the Year 1827, he obtained from the Alien Office, in Westminster, a

* Marginal note.—9 Geo. 4, No. 6 (see note 82).

Petition from
C. W. Roemer
for letters of
denization.

Certificate of his having been continually residing in that Kingdom for a period of seven years next before the passing of the Alien Act, 7th George IV. Cap. 54, and of his being thereupon exempt from the operation of that Act. *Vide Appendix A.*

1836.
23 Feb.

Petition from
C. W. Roemer
for letters of
denization.

2. That, early in the Year 1832, Your Petitioner emigrated to this Colony with the view principally of promoting the growth and exportation of Australian Wools, for which he was qualified by long experience.

3. That your Petitioner, as a holder of Sheep, has from time to time made several purchases at public auction of Crown Lands in the said Colony, under the Regulations established by His Majesty's Government in the Year 1831; of which lands he has continued to hold peaceable and uninterrupted possession.

4. That your Petitioner has received a letter from the Honorable the Colonial Secretary, dated the 30th December, 1835, referring to the said purchases of land made by Your Petitioner, and informing him, by direction of His Excellency the Governor, that, being an Alien and not holding Letters of Denization, no legal Title can be given to him for the possession of land in this Colony; but that, if your Petitioner wished it, His Excellency would forward to the Secretary of State any request which your Petitioner might prefer for being admitted as Denizen. *Vide Appendix B.*

Wherefore your Petitioner humbly prays that your Lordship will be pleased to take the premises into your favorable consideration and to grant unto him the indulgence of Letters of Denization, conformably with the Laws of the United Kingdom of Great Britain and Ireland.

And your Petitioner, as in duty bound, will ever pray, etc., etc.

CHARLES WILLIAM ROEMER.

Dated at Sydney in the Colony of New South Wales, this seventeenth day of February, 1836.

[Appendix A.]

CERTIFICATE.

Alien Office, Crown Street, Westminster.

THIS IS TO CERTIFY That Charles William Roemer, Native of Germany (Importer of German Wool), resident at Number 34 Queen Street, Cheapside, in the City of London, and whose Counting House is situate at Number 7, Token House Yard in the said City, having been continually residing in this Kingdom for a period of Seven Years next before the passing of the Alien Act, 7th Geo. IV, Cap. 54, is exempt from the operation of the Act.

Certificate re
residence in
United
Kingdom.

Dated the third day of March, 1827.

W. HUGHES.

To all whom it may concern.

Age, 28 Years; Height, 5 ft. 8 inches; Visage, Round; Hair, Light Brown; Complexion, fair; Eyes, darkish; Nose, Ordinary; Eyes Brown, light brown.

[Appendix B.]

COLONIAL SECRETARY MACLEAY TO MR. C. W. ROEMER.

Sir, Colonial Secretary's Office, 30th December, 1835.

With reference to the several purchases of Land which you have made from the Government at public auction, I am directed by His Excellency the Governor to inform you that, being an Alien and not holding Letters of Denization, no legal Title can be given to you for the possession of Land in this Colony, but that, if you wish it, His Excellency will forward to the Secretary of State any request you may prefer for being admitted as a Denizen.

Inability to
grant title
for land to
C. W. Roemer.

I have, &c.,

ALEX. MCLEAY.

1836.
24 Feb.

SIR RICHARD BOURKE TO LORD GLENELG.

(Despatch No. 22, per ship City of Edinburgh; acknowledged by Lord Glenelg, 22nd September, 1836.)

My Lord, Government House, 24 Feby., 1836.

Transmission
of memorial
from
T. Brennand
re land grant.

At the request of Mr. Thomas Brennand, I have the honor to forward a Memorial which he has addressed to me, claiming Land under the Regulations in force in the year 1829, on the ground of his having then emigrated on the faith of those Regulations, and his being engaged, when the new Regulations were promulgated, in selling off an investment of goods imported by him to New South Wales, with the bona fide intention of employing the proceeds on the Land which he expected to obtain as a grant.

Although Mr. Brennand's case appears a rather hard one, I have not felt myself at liberty to take into consideration the motives which delayed his official application for land, and to relieve him from the consequences of the new Regulations having taken effect before his preliminary objects were completed.

I have, &c.,

RICHD. BOURKE.

[Enclosure.]

[A copy of this memorial is not available.]

SIR RICHARD BOURKE TO LORD GLENELG.

(Despatch No. 23, per ship City of Edinburgh; acknowledged by Lord Glenelg, 19th August, 1836.)

My Lord, Government House, 25 Feby., 1836.

25 Feb.

Request by
W. Ogilvie for
commutation
of half pay
and pension
in exchange
for land.

At the request of Mr. William Ogilvie (a retired Commander of the Navy in receipt of Half-pay very respectably settled in this Colony with a large Family), I have the honor to forward a Petition stating his desire to give up his half-pay and the Pension of his wife in case of her surviving him, for an equivalent in Land, or in remission in purchase money of Land in New South Wales.

The propriety of permitting the commutation of Half-pay and Pension by retired Naval officers is a question wholly for the consideration of His M.'s Government. It only appears necessary for me to observe on Mr. Ogilvie's proposal that, if the value of the Pay and Pension be remitted in the Purchase of Land in this Colony, it will be virtually charged upon a fund now regarded as purely Colonial, whereas the British Treasury alone

will profit in respect of the annual sums given up. I would suggest, therefore, that, if the present application be complied with, the amount of commutation should be paid from the Military Chest into the Colonial Treasury. I have, &c.,

1836.
25 Feb.

Adjustment of
commutation
allowance.

RICHD. BOURKE.

[Enclosure.]

[A copy of this memorial is not available.]

LORD GLENELG TO SIR RICHARD BOURKE.

(Despatch No. 111, per ship Lord Goderich; acknowledged by Sir Richard Bourke, 16th September, 1836.)

Sir, Downing Street, 26th February, 1836. 26 Feb.

Your despatch of the 1st of August last, marked Separate, announcing your expectation that Mr. McLeay would, within the year, resign the Office of Colonial Secretary of New South Wales, and proposing the arrangements, which you thought necessary for supplying the Vacancies which would be occasioned by that change, has engaged my most attentive consideration. I should not, on any ordinary occasion, have thought it right to submit for His Majesty's sanction the name of any Gentleman for an Office, which had not actually been vacated by the death or resignation of his immediate Predecessor. But, on the present instance, adverting to Mr. McLeay's advanced period of Life, to his long course of Public service, to the fact that he is in actual possession of a Superannuation Allowance, and to his own avowal of his purpose to retire from Public life, and, above all, bearing in mind the necessity of fortifying you by the most effective assistance in the commencement of any new System of local Administration, which may be consequent upon the approaching alteration of the New South Wales Act, I have not thought it right to leave any longer in uncertainty, a question of such vital importance to the successful conduct of the Public business of the Colony. I therefore enclose the Warrants, under His Majesty's Sign Manual for appointing Mr. Edward Deas Thomson to be Colonial Secretary, and Mr. William McPherson to be Clerk of the Council of New South Wales.

Despatch
acknowledged.

Arrangements
re intended
resignation of
A. Macleay.

Warrants for
appointment of
E. D. Thomson
and
W. Macpherson.

The Office of Collector of Crown Revenue, according to the arrangement* contemplated by the Earl of Ripon, and now recommended by yourself, will be consolidated in the person of Mr. Campbell Riddell, but without any increase of Salary to that Gentleman.

Union of offices
of collector of
internal revenue
and treasurer.

If, contrary to your expectation, Mr. McLeay should not actually have resigned his office before the arrival of this despatch, you will assure him of my anxiety to consult his

* Note 83.

1836.
26 Feb.

Convenience of
A. Macleay to
be consulted.

convenience to the utmost extent, which may be compatible with the interests of the Public Service; and you will postpone the actual issuing of the Commissions under the Public Seal of the Colony until the expiration of any moderate and reasonable period, for which, with the view to the arrangement of his public or private affairs, Mr. McLeay may wish to have that measure delayed.

Commendation
of services of
Sir R. Bourke.

I have had peculiar satisfaction in submitting your advice on this occasion for His Majesty's gracious sanction, as it has afforded me an opportunity of evincing my earnest desire to meet your wishes upon every subject connected with that branch of the Public service, in which you have been employed with so much well deserved honor to yourself, and so much advantage to that important part of His Majesty's Dominions, which has been confided to your superintendance.

I am, &c.,

GLENELG.

LORD GLENELG TO SIR RICHARD BOURKE.

(Despatch No. 112, per ship Lord Goderich.)

Sir,

Downing Street, 26th February, 1836.

Despatches
acknowledged.

I have received your Dispatches Nos. 70 and 84 of the 26th of July and 18th August last, on the subject of the Emoluments of Mr. Fisher, the Crown Solicitor at New South Wales.

Proposals for
remodelling
establishment
of law officers.

In considering this subject, I have found it impossible to separate it from the more general question, which you have at the same time pressed upon my attention, that of remodelling the establishment of the Law Officers of your Government. I cannot better place you in possession of the sentiments of His Majesty's Government upon this question than by transmitting to you Copies of the Correspondence, which has passed between this Department and the Board of Treasury.

J. Kinchela
to retire as
attorney-
general.

You will perceive that His Majesty's Government consider it an imperative duty to call upon Mr. Kinchela to retire from his office of Attorney General, as the confirmed deafness, with which he is afflicted, renders it impossible for him to continue in that position. In communicating this decision to that Gentleman, you will assure him that it is not, without the greatest pain, that I am compelled to direct the measure, which I would by no means adopt, were it in my power to avoid it with a due regard to the interests of the Public Service.

J. H. Plunkett
to succeed
as attorney-
general.

Salary for
F. Fisher.

Mr. Plunkett will then succeed to the appointment of Attorney General; the Office of Solicitor General will be abolished; and Mr. Fisher will receive as Crown Solicitor a Salary of £800 a year, to be computed retrospectively from the date of his assuming that Office in the Colony.

You will offer to Mr. Kinchela's acceptance the first public office of which he shall be able to perform the duties without inconvenience to the Public arising from his deafness, and to which he could succeed without any undue sacrifice of Rank, and without detriment to the preferable claims of other competitors. In the mean time, you are authorized to assign to Mr. Kinchela a Compensation not exceeding the Amount of the saving, which will ultimately be effected by this new arrangement.

1836.
26 Feb.

J. Kinchela to be offered office ;

and to receive compensation.

I am, &c.,
GLENELG.

[Enclosures.]

[Copies of these papers are not available.]

LORD GLENELG TO SIR RICHARD BOURKE.
(Despatch No. 114, per ship Lord Goderich.)

Sir, Downing Street, 26th February, 1836.

I transmit to you herewith a copy of a letter which I have received from Mr. John Rule, late Surgeon of the "Layton" Female Emigrant Ship, in which he urges his claim to a Grant of Land or to some appointment under the Government, in consequence of expectations which he states to have been held out to him by Mr. Bracebridge, a Member of the Emigration Committee, and by Mr. Marshall, the Agent to that Committee.

Claim by J. Rule for land grant or appointment.

Although this application should have been sent through you, yet, in order to prevent needless anxiety as to the result of it, I have to request that you will acquaint Mr. Rule that there is no record in this office of any authority having been given to Messrs. Bracebridge or Marshall to enter into any such engagement with him, and that I cannot feel myself bound by any such unauthorised engagement, or hold out to Mr. Rule a prospect either of a Grant of Land, or promotion in the Public service.

Denial of claim.

I am, &c.,
GLENELG.

[Enclosure.]

MR. JOHN RULE TO LORD GLENELG.

My Lord, Sydney, 17th Sept., 1835.

Proceedings, that have lately occupied much of the attention of the Inhabitants of Sydney and other persons in N. S. Wales, render it a duty I owe to myself to lay before you a brief account of my claim on your patronage. Assistant Surgeon in the Naval Hospital at Jamaica, and afterwards several years (from Jany., 1800, to June, 1825, inclusive) Surgeon in the Packet Dept. on the Falmouth Station. I was nephew to the late V. Admiral Peard, and relative to the late Admiral Bligh, Govr. of this Colony. I had, with permission, temporarily retired, from whence I was prevailed

Claims by J. Rule to patronage.

1836,
26 Feb.

Promise of
land grant or
appointment.

Refusal of
land grant or
appointment by
Sir R. Bourke.

on to take the medical charge of Female Emigrants by the Ship Layton, and sailed from London with that charge in August, 1833, having the assurance of Mr. Bracebridge, one of the Emigration Committee, and Mr. Marshall, the Committee's Agent, that the Despatches from the Colonial Secretary contained strong recommendations to the Govr. of N. S. Wales in my favor, that I might not only have a Grant of Land in or near Sydney, but also that I might be appointed to fill some Public situation in N. S. Wales, as I have been informed have been recommended and conformed to in other similar cases. But I find I was deceived, as H.E. has informed me that no such recommendations have reached him, and he refuses to acknowledge me as being in any way entitled to employment or other encouragement either in the shape of a Grant or abatement in purchase of Land, or Surgeon, or Coroner, or other situation in the Colony, or Surgeon or Superintendent of Emigrant or Prison Ships, notwithstanding my long servitude, the somewhat official capacity in which I came to this Colony, and my bringing my family with me, whereby I am left in a state of destitution in a distant Land, without any Emolument for my Services on the Voyage, notwithstanding the flattering recommendations I furnished to the Committee for Emigration in London.

I have, &c.,
JNO. RULE.

LORD GLENELG TO SIR RICHARD BOURKE.
(Despatch No. 115, per ship Lord Goderich.)

Sir, Downing Street, 26 February, 1836.

Despatch
acknowledged.

I have to acknowledge the receipt of your letter of the 3d of September last, No. 87, reporting the death of Mr. Deputy Commissary General Laidley, and requesting that any compensation which might be considered due to that Officer on the grounds set forth in the Memorial, which accompanied your Despatch No. 14 of the 3d of February last, might be accorded to his family.

Representatives
of J. Laidley
to receive
compensation.

Having in my Despatch No. 62 of the 16th of October last, authorised you to propose to the Council to vote a specific sum to Mr. Laidley from the Colonial Funds as a remuneration for his extra services, I need scarcely add that the legal Representatives of that Officer would naturally have a fair claim to benefit by any remuneration to which he himself might have been considered entitled.

I am, &c.,
GLENELG.

SIR RICHARD BOURKE TO LORD GLENELG.

(Despatch No. 24, per ship City of Edinburgh; acknowledged by lord Glenelg, 11th August, 1836.)

My Lord, Government House, 26 Feby., 1836.

Despatch
acknowledged.

I have the honor to acknowledge the receipt of Your Lordship's Despatch of the 9th October last, No. 55, and of one previously received from the Earl of Aberdeen, suggesting the

convenience of the enclosures of my Duplicate Despatches being rendered when practicable as complete as those of the originals, a recommendation which shall be carefully attended to with regard to all matters of a strictly public nature. I cannot suppose Your Lordship's suggestion to refer to such communications as are forwarded through me from private Individuals pursuant to Regulation, and of which Duplicates are forwarded only when furnished by the Parties interested. If it be desired that Copies of such papers shall be made by my private Secretary for transmission with the Duplicates of my covering Despatches, I have to represent the indispensable necessity of his being allowed Clerks, as was the case during the Government of my Predecessor, when two constantly and sometimes three were charged upon the Private Secretary's abstract. The business of his office has not diminished, but on the contrary increased; and the assistance, which he is able to render me in my very onerous duties, is seriously curtailed by the time taken up in the mechanical Labor of copying.

1836.
26 Feb.

Transmission of duplicates of enclosures with despatches.

Necessity for clerks to private secretary.

I have, &c.,

RICHD. BOURKE.

LORD GLENELG TO SIR RICHARD BOURKE.
(Despatch No. 116, per ship Lord Goderich.)

Sir, Downing Street, 27th February, 1836.

27 Feb.

With reference to my despatch No. 91 of the 15th December last, I have now to acquaint you that, having failed to obtain the Services of a Clergyman of the established Church, I have, at the recommendation of the London Missionary Society, appointed the Revd. Thomas Atkins, an Independent Minister, to perform the duties of Chaplain at Norfolk Island.

Appointment of Revd. T. Atkins as chaplain at Norfolk Island.

Mr. Atkins will proceed to the Colony under the arrangement, which was stated in my despatch above mentioned, and, from the high testimony which has been borne to his character and qualifications for the peculiar duty which will devolve upon him, I trust that the best results may be anticipated from his exertions.

I have, &c.,

GLENELG.

LORD GLENELG TO SIR RICHARD BOURKE.
(Despatch No. 117, per ship Lord Goderich.)

Sir, Downing Street, 28 February, 1836.

28 Feb.

With reference to the enclosed Return, which I have received from Lieut. Governor Arthur, shewing the average wages of mechanics and others, together with the aggregate number of each description required in Van Diemen's Land, and also to

Returns received from G. Arthur.

1836.
28 Feb.

Returns
required *re*
wages and
cost of living.

another Return shewing the average prices of Provisions in that Colony; I have the honour to request that you would take the necessary steps for collecting similar information with reference to the Colony under your Government, and that you would transmit it to me in the form of annual Returns, ending on the 30th of June.

I have, &c.,
GLENELG.

[Enclosure.]

[A copy of this return will be found in a volume in series III.]

SIR RICHARD BOURKE TO LORD GLENELG.

(Despatch No. 26, per ship City of Edinburgh; acknowledged by lord Glenelg, 18th September, 1836.)

My Lord, Government House, 28 Feby., 1836.

Referring to the Despatch* in which I submitted a proposal for employing as Agents to seek and bring out emigrants to this Colony some of the Surgeons of the Navy, who come out here in charge of Prison ships, and to that in which I stated that David Boyter, Esq., had been furnished with Instructions for obtaining Emigrants from the Eastern Parts of Scotland to be laid before your Lordship for approval and final orders, I have now the honor to introduce to Your Lordship's notice Alick Osborne, Esq., who is about to proceed to Europe by the "City of Edinburgh," and who has been furnished with similar instructions for the Northern Parts of Ireland, which he has been likewise directed to lay before Your Lordship.

I have, &c.,
RICHD. BOURKE.

SIR RICHARD BOURKE TO LORD GLENELG.

(Despatch No. 27, per ship City of Edinburgh; acknowledged by lord Glenelg, 30th August, 1836.)

My Lord, Government House, 28 Feby., 1836.

In a former communication† I had the honor to represent to the Secretary of State the Expediency of appointing a Civil Engineer for this Colony, and intimated that the Legislative Council had consented to allow a Salary of £1,000 a year. In reply,† I was informed that His Majesty's Government had determined to send out a branch of the Ordnance Department, and that the employment in Colonial Services of the Commanding Royal Engineer might probably supersede the necessity of a Civil appointment.

Nomination
of A. Osborne
as surgeon to
procure
inmigrants.

Proposal for
appointment of
civil engineer.

* Note 84.

† Note 85.

I have now to inform Your Lordship that Captn. Barney of the Royal Engineers has arrived in command, and that I have already had occasion to request his assistance in the direction of a Colonial Work. He is employed in removing obstructions to the Navigation of the Paramatta River, to effect which a fruitless attempt was made by a contractor in the last year, and he has inspected and reported upon the Breakwater now in progress at Newcastle. The Military duties, which Captn. Barney is required to perform, including the charge of the Convict Buildings, will no doubt occupy a large portion of his time, more particularly during the next two or three years. Nevertheless, I am of opinion that, by increased exertion, he may render very essential service to the Colony by the exercise of his professional ability on many of our public Works. I would therefore propose to Your Lordship that leave be granted to Captn. Barney to undertake the duty of Colonial Engineer, receiving a Salary from the Colony of £500 a year and the travelling charges allowed in the King's service. I cannot doubt that the Council will readily consent to obtain this officer's services upon terms so much more advantageous than those proposed for the Civil Engineer. And, as I have already given him some employment, I would propose that his Salary commence from the date of the first order he received for Colonial Service.

1836.
28 Feb.

Arrival of
G. Barney.
Employment
on colonial
works.

Military duties
of G. Barney.

Proposed
employment of
G. Barney as
colonial
engineer.

I have, &c.,

RICHD. BOURKE.

SIR RICHARD BOURKE TO LORD GLENELG.

(Despatch No. 28, per ship City of Edinburgh; acknowledged by lord Glenelg, 25th August, 1836.)

My Lord,

Government House, 28 Feby., 1836.

At the request of Mr. Robert Turnbull, I have the honor to transmit a Memorial which he has addressed to Your Lordship praying that he may receive a Grant of Land, which he states to have been promised him by Sir Thomas Brisbane in the year 1825. The promise appears to have been cancelled by virtue of a Government order, from the operation of which he desires to be exempted for the reasons brought forward in his Memorial. There is however another view of his case which, being unnoticed by himself, it is necessary I should submit to Your Lordship's attention. The promise of Sir Thomas Brisbane, originally made to Dr. Halloran, the Father-in-law of Mr. Turnbull, was made subject to the approval of the Secretary of State, and was so subject when the transfer of the "Section of land to be reserved" was authorized in favor of the latter. A Despatch

Transmission
of memorial
from
R. Turnbull.

Conditional
promise
of land by
Sir T. Brisbane.

1836.
28 Feb.

Disallowance
of claim for
land grant.

from Lord Goderich to my Predecessor, dated 13 July, 1827, No. 29, disallows the grant applied for by Dr. Halloran, and this, although the reasons for such disallowance are personal to that Gentleman, may be perhaps regarded as fatal to the claim of the Memorialist, which is wholly derived through him.

I have, &c.,

RICHD. BOURKE.

[Enclosure.]

Memorial of
R. Turnbull
re claim to
land grant.

THE Humble Memorial of Robert Turnbull, of Bathurst, in the Colony of New South Wales, A free Settler,

To His Majesty's Principal Secretary of State for the Colonial Department.

Humbly Sheweth.

1. That, in the year 1825, His Excellency Sir Thomas Brisbane, then Captain General and Governor in Chief in and over the said Colony and its dependencies, was pleased to promise to the late Reverend Doctor Halloran, deceased, A Grant of one Section of Land in any part of the Colony at that time open for selection.

2. That the said Doctor Halloran, having married the daughter of Your Memorialist, was desirous that all his interest in the said promise should be transferred to Your Memorialist; whereupon he (Doctor Halloran) addressed to His Excellency a letter dated the 14th November, 1825, praying that such transfer might be allowed.

3. That, in reply to the said application, Doctor Halloran had the honor to receive a letter from his Excellency's private Secretary, dated the 26th of the same Month, acquainting him, by His Excellency's command, that His Excellency had great pleasure in acceding to his (Doctor Halloran's) request that the section of land, which had been directed to be reserved for him, should be transferred to Your Memorialist. *Vide Appendix A.*

4. That, immediately upon the receipt of the said letter, Your Memorialist attended at the Office of the Surveyor General, when that Officer informed Your Memorialist that, being then very ill, he could not for the present do any thing in Your Memorialist's case.

5. That, before Your Memorialist could obtain from the late Surveyor General, John Oxley, Esqre., deceased, the requisite authority to make his Selection, Your Memorialist, being then a Master Mariner, was obliged to proceed to Sea; and when, upon his return to port Jackson, he applied to Sir Thomas Brisbane's successor in this Government, Lieut. General Darling, for a written authority to select the Section of Land promised to him (your Memorialist) by His Excellency's predecessor, Your Memorialist was informed, to his great astonishment and chagrin, that in pursuance of a Government Order, promulgated during Your Memorialist's absence from the port, requiring all donees of Crown Lands to make their selection within a given period on pain of forfeiture (which period had then expired), Sir Thomas Brisbane's order in favour of Your Memorialist had been cancelled.

6. That Your Memorialist respectfully protested against the application to his case of an order, with the terms of which it had been physically impossible for him to comply; but, notwithstanding the manifest hardship of his case, Your Memorialist was never honoured with an answer to any of the repeated applications which he subsequently made.

7. That, some time after his return to the Colony, Your Memorialist, having determined to settle therein, and not doubting that the justice of his claim would be ultimately allowed, took peaceable possession of a tract of vacant Crown Land in the Bathurst district, situated between Rain-vale and Sydmouth Valley; but, after residing thereon some time, and expending considerable sums of Money in improvements, he became alarmed by current reports that all intruders upon Crown Lands were about to be ejected, and, not deeming it prudent under such circumstances to risk a further outlay of Capital upon Land to which he had no formal title, he relinquished it altogether, and rented a small farm (of which he is still the Tenant) with the view of awaiting some more favourable opportunity of renewing his claim.

1836.
28 Feb.

Memorial of
R. Turnbull
re claim to
land grant.

8. That, in the year 1832, upon the occasion of His Excellency Major General Bourke, the present Governor in Chief, paying a visit to this district, Your Memorialist took the opportunity of submitting the hardship of his case to his Excellency's consideration; when he had the honor to receive from His Excellency's private Secretary a letter, dated the 4th November, 1832, informing him, by command of the Governor, that His Excellency regretted that, according to the present regulations, it was not in his power to make to Your Memorialist a Grant of Land, but that, as Your Memorialist's Case seemed to be one of much hardship, His Excellency would apply to the Secretary of State to allow Your Memorialist to select the land, which it was the intention of Sir Thomas Brisbane to put him in possession of. *Vide Appendix B.*

9. That Your Memorialist, confiding in the justice and discrimination of His Majesty's enlightened Government, now humbly appeals to you, Right Honorable Sir, against his being deprived of a right conferred upon him in the name and by the authority of His Most Gracious Sovereign; and a right which it is not even alleged he has done any thing to forfeit, except his non-compliance with an order from which, even though its general policy were unquestionable, his own case ought upon every just and rational principle to have been treated as an exception. *Vide Appendix C.*

Wherefore Your Memorialist humbly prays that You, Right honorable Sir, will be pleased to take the premises into Your most favourable consideration, and, if necessary, submit them to His Most Gracious Majesty in Council; and, should it appear that his claim is founded in truth and justice, he prays that you will be pleased to instruct His Excellency the Governor to authorise Your Memorialist to select the quantity of land promised to him by Sir Thomas Brisbane as aforesaid, and to grant the fee simple thereof to Your Memorialist on the terms and conditions in force at the time the said promise was given.

And Your Memorialist, as in duty bound, will ever pray, etc.

ROBERT TURNBULL.

Bathurst, New South Wales, 5th Novr., 1834.

(Appendix A, referred to in paragraph 3.]

MR. W. LITHGOW TO REVD. DR. HALLORAN.

Sir, Private Secretary's Office, 26th Novr., 1825.

I am commanded by His Excellency the Governor, in reply to your letter of the 14th instant, to acquaint you that he has great pleasure in acceding to your request that the section of land, which was directed to be reserved for you, should be transferred to Captain Turnbull. I have, &c.,

WILLIAM LITHGOW, Acting Private Secretary.

1836.
28 Feb.

[Appendix B, referred to in paragraph 8.]

PRIVATE SECRETARY BOURKE TO CAPTAIN TURNBULL.

Sir,

Bathurst, 4th Novr., 1832.

Inability to
grant land to
R. Turnbull.

I am commanded by the Governor to inform you, with reference to your late Memorial, that His Excellency regrets that, according to the present regulations, it is not in his power to make you a Grant of Land; but, as your case seems to be one of much hardship, His Excellency will apply to the Secretary of State to allow you to select the land, which it was the intention of Sir Thomas Brisbane to put you in possession of.

I remain, &c.,

R. BOURKE, Pte. Secy.

[Appendix C, referred to in paragraph 9.]

IN THE MATTER OF AN APPEAL TO HIS MAJESTY'S GOVERNMENT.

New South Wales to wit.

Affidavit by
R. Turnbull.

ROBERT TURNBULL, of Bathurst in the Colony aforesaid, Settler, maketh oath and saith that the several matters, contained in the foregoing Memorial from himself to the Right Honourable the Principal Secretary of State for the Colonies, are, to the best of his (Deponent's) knowledge and belief, truly and correctly set forth.

ROBT. TURNBULL.

Sworn before me, this 24th Day of February, 1834, at Bathurst, New South Wales:—THOS. EVERNDEN, J.P., Supt. Police.

SIR RICHARD BOURKE TO LORD GLENELG.

(Despatch No. 29, per ship City of Edinburgh; acknowledged by lord Glenelg, 22nd August, 1836.)

My Lord,

Government House, 28 Feby., 1836.

Issue of new
commission
of peace.

In my Despatch of the 24th ulto., No. 7, I informed Your Lordship that I had thought it necessary to issue a new Commission of the Peace for this Colony on the opening of the present year, and that I had taken occasion to omit the names of certain Justices with whose conduct I had reason to be dissatisfied. Four of these Gentlemen have addressed a complaint to Your Lordship in the letter, which at their request I now transmit.

Protest by
settlers *re*
their omission.

Reasons for
omissions.

Your Lordship may desire that I should state, for your information, the circumstances which led me to think it inexpedient to place the names of the Memorialists in a Commission of the Peace of my creation. I will briefly give the history of each case.

Career of
J. Lamb.

Mr. Lamb is a Lieut. in the Navy on Half-pay settled as a Merchant in Sydney. He was named to be a Justice of the Peace in the year 1830. I cannot discover that, until the transaction related by the Police Magistrate in the accompanying Report, Mr. Lamb ever evinced the activity for which in his Letter he desires to take credit, or even appeared (unless very rarely) on the Bench. Upon the occasion referred to, He with Mr. Bingle and other Justices took their seats at the Police office in Sydney in concert, as it would seem, with Mr. Mudie also a Justice of the Peace, who appeared as the Informant in a complaint preferred by him against a convict holding a Ticket of

Prosecution of
W. A. Watt
by J. Mudie.

Leave named Watt. Against this man, Mr. Mudie brought several charges which were afterwards abandoned. Some of the Justices, who appeared on the Bench when the case was opened, ceased to attend when the complexion of the affair was apparent; but Messrs. Lamb and Bingle with two others continued to sit, Mr. Lamb being distinguished as the Leader and Spokesman of his associates. These Justices, in number sufficient to control the three Police Magistrates, took possession of the Police Bench and held it for the greater part of six or seven days to the exclusion of more important and necessary business, and the consequent injury of the Public, whilst the Informant Mudie, with their sanction and contrary to all legal form, was examining witnesses, and seeking, as he assumed, to discover and establish charges against the Prisoner Watt. At the end of fourteen days, these Proceedings were suddenly closed. The charges were found untenable and were abandoned. The four Justices, with the Informant Mudie, withdrew from the Court, having first prohibited the Prisoner from making any defence or giving any explanation of what had been alleged against him, and reported to the Government his omission in a matter of Convict Regulation, the knowledge of which came before them incidentally and formed no part of the original accusation.

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by J. Mudie.

No person, who considered the circumstances of these Proceedings, the nature of the alleged complaint, the infrequent appearance on the Police Bench of the four Justices principally concerned (three of whom were appointed with the view of their acting in places remote from Sydney), the close connexion and intimacy subsisting between some of them and the Informant Mudie, and their general conduct and demeanor whilst sitting on the Bench, could reasonably conclude that the love of Justice prompted their interference with the ordinary duty of the Police Magistrates upon that occasion. It was universally believed, from the questions put by Mr. Lamb (and the fact is confirmed by statements contained in the Report) that the object of this Proceeding was to elicit something, which might cast a slur on the Government, by discovering some intercourse on subjects of local politics between the first Police Magistrate and the Prisoner Watt, and some undue regard shewn to the latter by the Governor on that account. These Individuals used their power as Ministers of Justice to forward a political Intrigue, and, though disappointed, they were not less guilty. Their conduct excited universal disgust and scandal in the Town, and, had I removed from the Commission of the Peace Mr. Lamb and two or three of those chiefly concerned with him when the examination at the Police office closed, I should only have met the general

Motives of
certain justices
in attending
police bench
at Sydney.

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Omission of
Lamb, Mudie,
Bingle and
Macleod from
commission of
peace.

Further reasons
for omission of
J. Mudie :

and of
J. Bingle.

Inclusion of
A. B. Sparke
in commission.

expectation. I thought it better, however, to avail myself of a New Commission, at the beginning of the approaching year, to make such changes in the Magistracy as this transaction demanded and other circumstances led me to contemplate. Accordingly, a new Commission was issued on the 5th January last, in which I did not insert the names of the Memorialists, Lamb, Mudie and Bingle, nor that of McLeod, who with them had made himself conspicuous at the Police Office, but who has not signed the Letter now transmitted, probably from the consciousness of there being other weighty reasons for leaving his name out of the Commission. There were also sufficient reasons for the discontinuance of Mudie and Bingle upon other grounds than their misconduct at the Police office. Mudie had refused to take his turn of duty with the Justices of the district, in which, on his appointment, it was expected he would act; and he resided for two years past almost constantly in Sydney. He had taken offence against the Government for having ordered an enquiry into the treatment of his assigned Servants, as already made known to the Secretary of State in my Despatch of 20 Sept., 1834, No. 94, and had published the Pamphlet on this subject replied to by Your Lordship's Despatch of 31st August, No. 46. Mr. Mudie has since that enquiry declared himself an opponent of the Government and taken every opportunity that presented itself of being personally disrespectful to the Governor by staring at him in the streets of Sydney, and omitting the usual marks of courtesy due to his station. Bingle also had ceased to reside in his District, in which he had given some cause* for Scandal before he left it. He had also misconducted himself on a former occasion, and had published a Pamphlet* which he forwarded to Mr. Secretary Stanley and received in reply that Minister's rebuke for the impropriety of his behaviour.

There was perhaps one other Magistrate, whom strict Justice would have connected in the measure adopted towards Mr. Lamb. A Merchant named Sparke was amongst those who conspired to usurp the Police Bench, Lamb, Bingle, Macleod and Sparke being the four who, by constant attendance for so many days to outnumber the Police Magistrates appointed for Sydney, outraged law and decency in the manner stated in the Report. But Sparke had previously borne the character of a respectable man; and, not having been guilty of the very improper behaviour manifested by Lamb, and believing him to have been led away by the evil Counsel of Mudie, I allowed his name to appear in the New Commission. The case of Maclaren is different from that of the other Memorialists. His appointment had taken place apparently

* Note 86.

without those considerations, which usually influence appointments to the Magistracy. He had neither wealth, station, nor talents, nor did he discharge the duties of his office in any useful manner. Still I should not have omitted his name on the late occasion, had I not great reason to doubt his probity. His treatment of the Church and School Corporation, detailed in the accompanying Memorandum from the agent of those Estates, rendered it impossible to place his name in any commission of the Peace issued by me, to whom his conduct in these matters had become fully known.

Having thus given the reasons, which induced me to decline naming the four Memorialists to be Justices, it is unnecessary to take up Your Lordship's time in combating the argument advanced by them that no Magistrate of New South Wales, who has made himself obnoxious to Convicts, ought to be omitted in any Commission of the Peace. It is sufficient to have shewn that other motives induced the omission of the names of these gentlemen. Nor is any lengthened reasoning required to prove the total want of connexion between the matter under review and the crimes, which are so prominently brought forward in their letter, most of which I should state occurred before my arrival in the Colony. The case* of the Servants of Mr. Mudie, whose son-in-law is referred to, is already known to Your Lordship; and the Magistrate, whose brother† met the deplorable fate alluded to, is not one of these Memorialists.

The Statements regarding the Sydney Gazette may be as shortly disposed of. The Proprietor of that Paper can be sued in damages or criminally for any libels that appear in it. If the Convict Watt, now at the distant Station Port-Macquarie, write libels (which is a mere gratuitous assumption), he may be brought to trial not before a Jury, but in a summary way before two Justices, and being convicted may lose his Ticket of Leave, and be sentenced to Corporal Punishment or labor in chains. Any flagitious conduct should not however be lightly imputed to a person who received such powerful recommendations for a Pardon from many of the most respectable functionaries in the Colony (of which the Archdeacon of New South Wales is one) as were transmitted to the Secretary of State in my Despatch of 6 July, 1834, No. 60. I do not remember to have received in any other case a similar application so strongly supported.

I have only to add that having omitted in the Commission the names of these Memorialists with many others, I availed myself of the usual practice in declining to assign any reason for the discretion I used on the occasion.

I have, &c.,

RICHD. BOURKE.

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Reasons for
omission of
J. Maclaren.

Replies
unnecessary to
statements in
memorial.

Reply to
statements *re*
Sydney Gazette.

Refusal to give
reasons for
omission to
persons omitted.

* Note 87.

† Note 88.

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[Enclosure No. 1.]

MR. J. LAMB AND OTHERS TO LORD GLENELG.

My Lord,

Sydney, 30th Jan., 1836.

Protest by
J. Lamb and
others *re*
omission from
commission of
peace.

We, the Undersigned Land holders in the Colony of New South Wales, beg respectfully to represent to your Lordship that, after having filled the office of Magistrates for many successive years, and performed the duties thereof with zeal and fidelity and (we believe) with benefit to the inhabitants of our several districts, our Names have been omitted in a New Commission of the Peace recently issued by His Excellency Sir Richard Bourke.

Alleged effect
of removal
on convicts.

The accompanying copy of correspondence with the Colonial Secretary will prove to your Lordship that we have in vain requested to be made acquainted with the reasons which induced His Excellency to adopt a course tending to degrade us in the eyes of our fellow Colonists, and to affect our reputation in other quarters. Independent of the injury thus inflicted on us individually, we submit to your Lordship that a serious evil has been done to the Colony by the creation of an opinion amongst the Convicts under sentence of Transportation that Magistrates obnoxious to them will be removed. In the conscientious discharge of our Magisterial duties, it is probable that we, in common with other active Magistrates, may have displeased many men of that class; and some of us in our own persons or in the persons of our nearest and dearest relatives have had signal and awful proofs of hostility. The Brother* of one of the Magistrates thus dismissed was murdered in his Bed. The House of another was plundered, and his Son in Law narrowly escaped with his life. The confidential overseer of a third was shot to death on the High way. A fourth was reviled and insulted within the precincts of a Court of Justice, and was knocked down and otherwise maltreated at noon day in the Streets of Sydney. These several outrages were committed by Convicts as will be found recorded in the Colonial Court.

Outrages on
magistrates
by convicts.

In addition to the Triumph our degradation has afforded to the Prison Population and to the many, who are connected with them by the ties of kindred and association, we have the mortification of finding ourselves the objects of libels disseminated in Papers conducted by, or the property of Convicts. And the peculiar structure of our Jury system deprives us of all means of redress. The most virulent of these Journals is the Sydney Gazette, the Proprietress of which is, by Permission of His Excellency the Governor, about to be married to a Convict named William Watt, and many gross libels which appear in it are from the Pen of this man. As the Law does not suppose him to be possessed of any property, a civil action for damages cannot be brought against him. And, if we proceed by criminal information, the Prisoner exercising his right to challenge would most likely strike out every unsullied name, and leave an array of Jury men not likely to return a verdict of guilty, whatever might be the nature of the evidence placed before them.

Alleged libels
in *Sudney*
Gazette.

Request
for inquiry.

Thus circumstanced, we trust your Lordship will direct an Enquiry into the causes, which have led to proceedings casting so serious a reflection on our characters, it being our anxious desire to openly meet those Charges which in His Excellency's opinion have rendered us unfit to continue in the Commission of the Peace.

We have, &c.,

JNO. LAMB. JNO. MACLAREN.
J. MUDIE. JOHN BINGLE.

[Sub-enclosure No. 1.]

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28 Feb.

[A] MR. J. MACLAREN TO MAGISTRATES OF COLONY.

Gentlemen,

Sydney, 7th Jan., 1836.

Permit me to lay before you the accompanying correspondence, relative to the omission of my name in the new Commission of the Peace, recently published. I feel it to be due to myself to make it known to my late Brother Magistrates that I have in vain sought for explanation from the Government, and I conceive it to be due to you also to be made acquainted with an act so deeply affecting the independence and respectability of your body.

Circular letter
by J. Maclaren
to magistrates.

I have, &c.,

JNO. MACLAREN.

[B] MR. J. MACLAREN TO COLONIAL SECRETARY MACLEAY.

Sir,

Sydney, 7th Jan., 1836.

I observe in the Gazette of yesterday's date a New Commission of the Peace, in which my name does not appear. I presume, therefore, it is His Excellency's intention to exclude me from the Magistracy. It is now nearly five Years since I became vested with that Office, and I can safely say that, during all that period, I had discharged the Duties, which it imposed, diligently and uprightly, and have endeavoured to the utmost of my humble abilities to promote the interest of society and the public welfare.

Protest by
J. Maclaren
re his omission.

My conscience acquits me of having been guilty of either oppression or injustice against any human being; and, relying on my integrity, I trust I do not overstep the bounds of propriety in giving expression to the sentiments of disappointment and wounded feeling, which so degrading an act naturally inspires.

I take the liberty to request that you will submit this my respectful remonstrance to His Excellency, who has not assigned any reason for the step which has been taken.

I have, &c.,

JNO. MACLAREN.

[C] COLONIAL SECRETARY MACLEAY TO MR. J. MACLAREN.

Sir, Colonial Secretary's Office, Sydney, 11 Jan., 1836.

I have had the honor to receive and lay before the Governor your letter of the 7th Inst., requesting to be favored with the grounds on which your name has been omitted in the New Commission of the Peace, published in the Government Gazette of the 6th of this month, and, in reply, I do myself the honor to inform you that His Excellency does not think it necessary to assign any reason for using his discretion in the selection of Justices of Peace for this Colony.

Refusal to give
reasons for
omission of
J. Maclaren.

I have, &c.,

ALEXANDER MCLEAY.

[D] MR. J. MACLAREN TO COLONIAL SECRETARY MACLEAY.

Sir, Sydney, 13 Jan., 1836.

I have to acknowledge the receipt of your letter of the 11th Inst., informing me that His Excellency does not think it necessary to assign any reason for exercising his discretion in the Selection of Justices of the Peace for this Colony.

Letter
acknowledged.

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Protest by
J. Maclaren *re*
refusal to give
reasons.

If consideration of less weight than such as affected my character and respectability only were involved in this proceeding of His Excellency's, I should not again press the matter upon his attention; but, when these interests are at stake, I deem no apology necessary for bringing my case again under his Excellency's notice. I do not for a moment question the power which His Excellency claims and has exercised; but His Excellency cannot be ignorant that the exercise of such power, without cause assigned, is a course of proceeding so unusual and arbitrary and so much calculated to injure the individuals, who have the misfortune to be the objects of it, as cannot fail to produce disaffection to His Excellency's Government in the minds of the people, and a sense of the deepest injury and injustice in the minds of the sufferers. If His Excellency had not been actuated by false representations affecting my reputation in the step which he has taken, it is but just that I should know it. If such evil reports have influenced His Excellency, it is equally due to me to have the opportunity afforded me of refuting them.

I beg therefore you will have the goodness to submit this further remonstrance to His Excellency, from whom I claim that justice which His Majesty's Government will not deny to the meanest object.

I have, &c.,

JNO. MACLAREN.

[Sub-enclosure No. 2.]

[A] MR. J. LAMB TO COLONIAL SECRETARY MACLEAY.

Sir,

Sydney, 7th Jany., 1836.

Observing that my name is not in the list of Magistrates published in yesterday's Gazette, and knowing that in England Gentlemen, who have once been in the Commission of the Peace, are not removed from it without their conduct is reprehensible or they evince glaring incapacity; I trust it will not be deemed presumptive in me to enquire the reason of my being dismissed from an Office I had held for five years without any imputation on my public or private character, of which I am cognizant.

His Excellency the Governor will, I have no doubt, admit that, on occasions when I had the honor of personally approaching him. I never failed in that respect which is his due; consequently any unfavorable opinions he may entertain of my conduct must be imbibed from the reports or representations of others, with which reports or representations I humbly submit that I ought in justice to be made acquainted, so that if false I may refute them, or if true amend my errors.

I now have no desire to resume a Post which has exposed me to much obloquy and some personal injuries; but, as a member of Society and as the Father of a Family, I am desirous of maintaining an unsullied reputation.

I have, &c.,

JOHN LAMB.

[B] COLONIAL SECRETARY MACLEAY TO MR. J. LAMB.

11 January, 1836.

[This letter was similar to the letter marked C, sub-enclosure No. 1.]

Request by
J. Lamb for
reasons of
omission from
commission.

[Sub-enclosure No. 3.]

1836.
23 Feb.

[A] MR. J. MUDIE TO SIR RICHARD BOURKE.

Sir, Castle Forbes, 9th Jany., 1836.

I perceive in the late Commission of the Peace my name has been omitted.

Your Excellency having done me the honor to become my guest and to dine at my table, I am sure you will excuse my respectfully asking if there has been anything in my conduct, either as a Justice of the Peace or a private Gentleman, to call for such an act, if I am right in considering it intentional. I have, &c.,

J. MUDIE.

Request for reasons of omission from commission by J. Mudie:

[B] COLONIAL SECRETARY MACLEAY TO MR. J. MUDIE.

11 January, 1836.

[This letter was similar to the letter marked C, sub-enclosure No. 1.]

[Sub-enclosure No. 4.]

[A] MR. J. BINGLE TO COLONIAL SECRETARY MACLEAY.

Sir, Sydney, 11th Jany., 1836.

Perceiving by the public Journals that my name has been omitted in the new list of Magistrates, I beg most respectfully to be informed by His Excellency the Governor of the cause of such omission, after having filled the Office for upwards of six years to the satisfaction of my neighbours.

and by J. Bingle.

Being desirous to forward the cause of my dismissal from the Magistracy to the Home Authorities and for the information of my friends in England, I beg to urge a reply at your earliest convenience. I have, &c.,

JOHN BINGLE.

[B] COLONIAL SECRETARY MACLEAY TO MR. J. BINGLE.

11th Jany., 1836.

[This letter was similar to the letter marked C, sub-enclosure No. 1.]

[Enclosure No. 2.]

A REPORT on the proceedings in the case of William Angus Watt, holding a ticket of leave for Sydney, to which is annexed a copy of the Depositions taken at the Police Office on the trial of this Individual.

ABOUT the third week in January last, William Angus Watt (Marquis of Hastings), whose person I was acquainted with from having frequently seen him at the Police Office as a witness for or against the Servants of Mrs. Howe, proprietress of the Sydney Gazette, when charged with any offence, and whom I had always understood to be a man of good character and highly recommended by the most respectable persons in the town, came to me and stated that, in consequence of some quarrel among the persons in Mrs. How's employment, he feared a charge was or would be brought against him respecting a transaction long gone by, in which he was said to have had some improper connection with a female;

Report by H. C. Wilson re proceedings in case of W. A. Watt at Sydney police office.

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Sydney police
office.

that no such connection was then existing; that he had long since repented of his Errors, and, as I understood him, had been leading an irreproachable life for a long period, at least from the time that I had become Police Magistrate. To the best of my recollection, this was a verbal application to me at the Police Office, and the prayer of it was that I should speak to the Governor in his favor.

I answered that I was glad to find he had repented of conduct blameable in anybody, but which must be considered criminal in a prisoner of the Crown. Yet that, under all the circumstances, I had no objection to certify to His Excellency what I knew of his character as far as My Office of First Police Magistrate had given me an opportunity of being acquainted with it.

His Excellency will perhaps recollect that I did mention the circumstance to him one day, just as I was taking my leave, after having had an interview with him on some business belonging to my department, when I stated that I thought Watt a well conducted man, and that I did not consider it expedient to go into charges of such a nature, when of very old date, and His Excellency was pleased to say he agreed with me in opinion.

A day or two after a paper was handed to me from Watt, as I was sitting on the bench at the Quarter Sessions, calling my attention in very respectful terms to the request above described and expressing great anxiety on the Subject. I was at the moment intent on business of much greater importance, and having hastily read the paper returned it open with a short Memorandum, Stating how far I had complied with his request by speaking favorably of him to the Governor, to whom I had communicated my intention of not entertaining such a case, and that His Excellency approved of my view of the matter.

No complaint was made however on the subject that I knew of to the Magistrates, and I thought no more of the man, till the 24th of July last, when Mr. Mudie, whom I had occasionally seen at the Police Office and knew as a Magistrate, told me that Watt had been shewing a letter from me, by which it appeared that I was his friend and protector, and that the Governor would "pull him through" whatever charge might be brought against him.

Conscious that I had never held any correspondence with the man, I heard this with some indignation, and I told Mr. Mudie I should send for him and make him account for it, which I did. The Constable whom I sent brought him (as it was after office hours) to my house, when he was stopped at the gate and not allowed in. On my coming out to him with the intention of sending him to the Watch house, if I found he had acted in the way Mr. Mudie had described, he satisfied me that he had never pretended to have any other correspondence with me than that above described, viz., a Memo. on the cover of his own letter in answer to his application, written in the hurry of business in a public court and sent back open through several hands, before it reached him. I therefore discharged him immediately. On that same day, I think Mr. Stephens,* Editor of the Herald, told me he wished to have a prisoner of the Crown apprehended on a charge of felony, and I ordered a Constable immediately to take the man in charge without knowing anything of the particulars or names of the parties. On Saturday the 25th, Mr. Stephens came to the Police Office with a Mr. O. Shaughnesy, formerly Editor of the Sydney Gazette, to swear against a man named Hay (whom I then found to be the person I had caused to be apprehended at Mr. Stephens'

* Note 89.

desire), charging him with having stolen a piece of paper worth five shillings, which he gave to Watt and Holden, a free man also employed in the Gazette Office. A warrant was issued for Holden and Watt and both Watt and Holden were apprehended and brought before the bench on Monday. I had then other business to attend to and had not intended going to the Police Office, but meeting with a gentleman at the Quarter Sessions, which were then sitting, who told me that several Magistrates, who do not generally sit on the Sydney bench, were circulating a report that I was the friend and protector of the prisoner Watt, and that, if I were not present at his examination, it would be said that I purposely absented myself from inability to meet or contradict the absurd falsehood. On hearing this, I went down immediately, and took my seat as Chairman. It was then that I learned for the first time what an interest the case had excited, and what a personage Watt was considered; for there were few persons in the Colony perhaps so little acquainted with its party politics as myself. The bench was crowded with Magistrates, though in general it is found extremely difficult to procure the assistance of any of them to make up a Session with those who belong to the Police establishment.

In the course of that and the two or three days preceding, I had heard much from the Gentlemen, who attended the examination of Watt, as to his being a dangerous Character to Society, being concerned in a newspaper, author of some offensive pamphlets, with several other allegations and insinuations to which I paid very little attention, being of opinion that a police Magistrate should have no prejudices; that each case should be tried upon its own merits and decided according to evidence without regard to politics or party; that it would be wrong to find a man guilty of theft, because he had been a writer or to condemn him as a fornicator because he had been impudent and abusive.

The prosecutor of Hay, Holden and Watt came attended by Counsel; a vote of the bench gave the prisoners permission to employ lawyers to defend them, though two of them were Convicts; but one of these two was unable to avail himself of the advantage.

In the course of the examination, I felt it my duty to ask several questions to help me to a clear understanding of the case myself and to make it as complete as I could for the Attorney General.

It appears that I have been much censured by the Strange Magistrates for so doing.

The three prisoners were committed for trial in the Supreme Court, when they were all acquitted, as I expected they would be, on the 7th August. I was not present at their trial, but I afterwards heard that there was some impropriety in the prisoner Watt's manner of conducting his defence, which induced the learned Judge, who tried him, to make a representation to the Governor. On receipt of which, His Excellency was pleased to order him to be removed to Port Macquarie; but, when sent for by the Principal Superintendent of Convicts in compliance with that order, he was found to be again in custody of the Police on the charge of Mr. Mudie for having slandered that Gentleman, being a habitual liar and for immoral conduct. The peculiar nature of these last charges will best appear from Mr. Mudie's deposition, prepared before hand in writing, and sworn to in presence of the Magistrates by which it was received as evidence. With all respect to the Majority of Justices who assisted on this occasion, I must say that, if I had been alone on the bench trying the case, I should have rejected much of

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what the prosecuting Justice swore to, as not being legal evidence against the prisoner.

The Police Office was more crowded and a greater number of Magistrates took a part in this trial, than on the examination of the same prisoner some weeks before.

The Copy of the proceedings, forwarded to the Colonial Secretary by command of His Excellency the Governor, will best show how far the charges were proven, and the conclusion come to by the bench after the very lengthened investigations which took place. It will appear from those proceedings that the prosecutor and Mr. Lamb (who afterwards Stated himself to have Spoken, as their Senior, the sense of the majority of the Magistrates) took great pains in enquiring whether there was any undue favor or protection afforded by the Governor or at His Excellency's desire by the First Police Magistrate and the Principal Superintendent of Convicts. whether I did not hold a private correspondence with him, and receive him as a visitor at my house. As to the first of these points, nothing more was proved than that in January last His Excellency the Governor conceded in the opinion, which I then expressed, and which is the same in effect with that which Mr. Lamb declared to be his, and the majority of the Justices present agreed in at last. There was, however, this great difference as to the time and the circumstances under which that opinion was offered. Mine was given as to a matter of general expediency, no case being before me, and on the supposition the particular one which gave occasion to the expression of it was of old date, and of a nature such as might be raked up against 99 persons out of 100, if their lives were to be looked back to in search of some instance of immorality. The opinion of the Bench, or at least of that majority which throughout the proceedings in this strange affair rendered that of the Police Magistrate of no avail, was given after having strictly enquired into the merits of the case, after the introduction of matter totally unconnected with it, and after discussing these various topics at great length to the hinderance of the public business and occasioning a considerable ferment in the public mind, after finding that the offence was of a later date, and not only of a more grave nature, but more susceptible of proof than I supposed it to be when I gave my Opinion as to General Expediency. It was after all this that it was voted that the prisoner should not be called on for his defence. This decision at this period of the proceeding was as much against the opinion of all the Police Magistrates, as it was contrary to my judgment at first that proceedings should be instituted tending to such a result.

Perhaps it may tend to give a more correct idea of the nature of this proceeding, if I state here that, altho' some of the Gentlemen who attended at first went away and discontinued their attendance after seeing the turn that was given to it, and others were sometimes absent who returned and heard parts of the case, there were always four at least who were prepared to outvote the Police Magistrates whose daily duty it is to sit on the Sydney Bench.

With regard to the private correspondence with a prisoner of the Crown attempted to be fixed (*vide* depositions) upon me with so much pertinacity by some of the Magistrates, it was clearly proved that the only correspondence I had ever held with the man in my life consisted of a public Memorandum, written on the back of an application such as I cannot help receiving hundreds of, and returned to him open, which memorandum was written in the presence

of the justices assembled at the quarter sessions, and perhaps too hastily, as, if my attention had not been taken up with the business before me, I should certainly not have given my opinion as the Governor's, nor have introduced the Governor's name, further than by stating that I had spoken favorably of the Applicant to him.

The last point, the visiting of the First Magistrate by a prisoner of the Crown, was attempted to be proved (*vide* Depositions) on still slighter grounds, *viz.*, the attendance *at my gate*, on the occasion above stated when I *sent a constable for him* in consequence of the strange communication of Mr. Mudie, when he was only brought to my residence because it was too late to find me at the Office.

Now as neither the Governor's favor, nor a correspondence with a Police Magistrate, nor the fact of being his guest or visitor, are matters of charge or offences punishable in a prisoner of the Crown, and yet were so closely enquired into by the Magistrates who assisted on the occasion but who do not attend the Sydney Bench at other times, and as those Magistrates ultimately decided not to put the prisoner on his defence upon any one of the charges brought against him in the first instance, and as I never before heard of such charges being tried before any tribunal, I could not help coming to the conclusion that it was something else besides the disorderly conduct of the prisoner at some former period, even the date of which was not stated, that had excited such unusual interest.

My opinion is strengthened by my having been told by the prosecution in the case that communications were to be made to the Secretary of State from some of the Magistrates, which would produce a great change in the measures of the Government of this Colony, and by another gentleman in the Commission of the peace that some of them had determined to bring charges against myself which would occasion my dismissal. In the course of the trial, I was called by the Prosecutor, sworn as a witness (after a vote deciding that I must comply), to detail the particulars of a conversation with His Excellency the Governor, the relevancy of which I could not understand, as it in no way affected the charge against the prisoner; and I therefore objected to the question, not conceiving that a public functionary is bound to disclose the particulars of his communications with the head of the Government, even on occasions more important than the trial of a prisoner of the Crown suspected of having been at some time disorderly; but, as my objection was overruled by the vote above mentioned, and I did not think it expedient to afford an opportunity of committing me from my chair to the Gaol, more especially as my opposition was to the General principle and in no ways to the publication of anything in which I was concerned and particularly of a fact which I had myself made public or rather which was done in public. Knowing that His Excellency had said nothing that might not be spoken before the whole world without indiscretion, I thought it best to answer the question, because there had previously appeared such a disposition to draw false inferences, that I had not a doubt my refusal would have been attributed to a consciousness that something had passed, which either His Excellency or myself thought it prudent to conceal.

The unusual desire of some Magistrates to take a part in the proceeding against Watt was among other circumstances manifested by their coming and voting towards the end of the trial,

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Report by
H. C. Wilson
re proceedings
in case of
W. A. Watt at
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W. A. Watt at
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office.

although they had not heard all the witnesses sworn, a course not strictly legal in my opinion.

Although I am compelled to believe that some Gentlemen were greatly actuated by a desire to inculcate the head of this Government and the Police Magistrates, or at least the First Police Magistrate, I am bound to State that it appears Watt himself was personally obnoxious to some of them on account of what I have before alluded to, I mean the belief or supposition that he had been the writer of some offensive productions in Newspapers and Pamphlets. Whether he was so or not, I have no means of judging further than by its being made known to me that he was in the employment of the proprietress of a newspaper and its having appeared in evidence that he had once shewn some Paper or article in a Paper under the name of "Bow Wow" to Richd. Jones, Esq., a witness in the case, acknowledging himself to be its Author. It does not appear, however, that Mr. Jones made any complaint of him on account of it any more than the prosecutor of the present charge, who knew him in the employment of another Editor also, although the lying and immorality, of which he is now accused, must have taken place, if at all, about the time of the publication of the very "Bow Wow" Spoken of by Mr. Jones. Though some of the Gentlemen, who assisted at Watt's trial, have Spoken to me of the notoriety of the fact of his being a writer, and therefore, as a prisoner of the Crown, a dangerous person to Society in Sydney, and mentioned moreover their conviction that he enjoyed in some special manner the protection and Support of His Excellency the Governor. I must say that the Police Magistrates were not cognizant of the fact of his having been a writer, nor had they any other reason to suppose he had than the insinuations of rival journals, a species of evidence to which it would be most dangerous for a Sydney Magistrate to pay attention. I could not elicit anything that would seem to justify the absurd idea that Watt was Specially protected or favored by His Excellency. None of the Gentlemen could assert that he had ever been complained of, or reported as dangerous on account of his writings, or even as having been a writer at all; on the contrary it was not denied that he had received the strongest recommendations from all his Employers,* and in short that there was nothing that could justify the Government or the Police in interfering with him previous to the Charge brought against him in July.

It will be perceived that, on the abandonment of all the charges originally brought against the prisoner, it was decided that a letter should be written to the Colonial Secretary on the part of the Magistrates, stating the fact of his not having mustered his ticket of leave agreeably to the regulations. I am not aware what the object of this report could be, as the circumstance had been already made known in the usual way through the Principal Superintendent of Convicts (of which circumstance the Magistrates were apprised) by me in my character of First Police Magistrate as soon as I became acquainted with the fact.

With regard to my share in the examination on this trial, I think it right to state that, as it had been plainly insinuated that I had displayed some partiality to the prisoner on the former occasion when I committed him, I thought best to interfere as little as

* *Marginal note.*—Vide M. Genl. Bourke's Despatch to the Rt. Hon. E. G. Stanley, dated July 6th, 1834, No. 60.

possible, but to leave the management of it in the hands of the prosecutor and those who, represented by Mr. Lamb, appeared to conduct the case. I therefore never once voted, never gave my opinion unless on a point of order, nor spoke unless in Explanation or to give Evidence or communicate papers addressed to me as Chairman, or on putting a question.

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re proceedings
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W. A. Watt at
Sydney police
office.

H. C. WILSON,
1st Police Magistrate.

[Sub-enclosure No. 1.]

COPY OF DEPOSITIONS REFERRED TO IN THE FOREGOING REPORT.

William Watt per M. of Hastings for 14 years holding a Ticket of Leave for Sydney.

Depositions at
prosecution of
W. A. Watt.

SYDNEY, { JAMES MUDIE, of Castle Forbes in the County of Northumberland, a Justice
to wit. { of the Peace, maketh Oath and saith that, on the 17th Inst., being in the
Supreme Court on the occasion of the trial of William Watt (a convict
under sentence of transportation for 14 years but holding a Ticket of Leave) and
others for felony, this Deponent was then publicly and before the Court charged by
the said William Watt with oppression and persecution, inasmuch as he the De-
ponent caused the said William Watt by such oppression and persecution to be
deprived of a lucrative situation he held in the Monitor Newspaper Office, the whole
of which statement this Deponent saith is utterly false; and this Deponent further
maketh Oath and saith that, in the course of his (the said William Watts)
defence, he (the said Watt), to the best of this Deponent's opinion and belief,
alluded to him as a Murderer of his Convict Servants, all which statements and
allusions this Deponent saith are infamous and untrue; and the Deponent is pre-
pared to prove that the said William Watt is a notorious and habitual liar, and in
other respects an immoral Character.

J. MUDIE.

Sworn before us, the 26th day of August, 1835.

H. C. WILSON, F.P.M. A. B. SPARK, J.P.
CHARLES WINDEYER, J.P. JOHN BINGLE, J.P.
JOHN LAMB, J.P.

SYDNEY, { JAMES MUDIE, Esq., being sworn, deposeth and saith:—the prisoner at the
To Wit. { Bar William Watt is the person alluded to in my affidavit. It was in the
Supreme Court the prisoner stated that he left the Monitor office in conse-
quence of my persecution and oppression; the immorality I complain of is that the
prisoner has cohobated and is connected with a female prisoner of the Crown up to
the present time. I have no doubt of it in consequence of the Information I have
received. I* knew the prisoner in the employment of Mr. Hall of the Monitor
Office. I was told by Mr. Hall that he held a share in the profits of that office; if
the profits did not amount to a certain sum, the amount was to be made up by
Mr. Hall. I had the Dumfries Courier and a Copy of the Old Bailey reports in my
possession; I shewed them to several of my friends, and at the same time remarked
that the prisoner was a very improper person to hold the situation he then did, I
think it is likely that I shewed them to Dr. Neilson. I took it to a number of
individuals. The† papers were shewn to the best of my opinion after the prisoner
left the Monitor; to the best of my recollection it was some time after; I have no
doubt it was after; it‡ was in the course of the prisoner's defence that he alluded
to my being the Murderer of my Convict Servants; the Judge allowed the prisoner
to say what I now complain of respecting my being the Murderer of my assigned
servants and his being driven from his situation by my Tyranny and oppression. I
can prove that the prisoner has been Guilty of Gross falsehood according to what
has been stated to me.

J. MUDIE.

Sworn the 26th Augt., 1835, Before—

H. C. WILSON, J.P. A. B. SPARK, J.P.
CHAS. WINDEYER, J.P. JOHN BINGLE, J.P.
JOHN LAMB, J.P.

SYDNEY, { FRANCIS STEPHEN, Esq., being sworn, deposeth and saith, I know the
To Wit. { prisoner at the Bar William Watt; he did tell me that Mr. Jones's politics
had changed, and that, when he wrote the Articles signed "Bow wow"
(he Mr. Jones) had a hand to give him and a chair to offer him, I mentioned this
circumstance to Mr. Mudie and he Mr. Mudie told me that he should mention the
circumstance to Mr. Jones, I told Mr. Mudie that I had no objection to his men-
tioning it to Mr. Jones. I think it is about twelve Months ago since the prisoner

* Marginal note.—xxd. by pr. † Marginal note.—xxd. by Mr. Lamb.

‡ Marginal note.—xxd. by the Bench.

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at the Bar mentioned the circumstance of Mr. Jones having shaken hands with him; on that occasion, the prisoner said that times had changed; that Mr. Jones's feeling towards him had changed; and that, when he (Watt) wrote the Articles "Bow wow," Mr. Jones had a hand to give him and a chair to offer him and it was then, "how do you do Mr. Watt"; this was a private conversation, and I did not think it would be brought into a public Court. I understood the prisoner to mean that Mr. Jones was in the habit of shaking hands with him. I did hear Mr. Mudie say that he should endeavour to get the prisoner's Ticket of Leave cancelled. Mr. Mudie never shewed me any Trial respecting the prisoner. Mr. Mudie never gave me the slightest intimation that he should require me to give evidence as to what the prisoner Watt had told me. I think Mr. Mudie has a hostile feeling towards the prisoner. Mr. Mudie in conversation has two or three times said that he considered the prisoner Watt a dangerous person to be connected with the situation which he lately held. I think he has ill will towards the prisoner. I think Mr. Mudie is more actuated in bringing forward the present complaint by what he heard the prisoner say of him, when on his defence in the Supreme Court, than by any other motive before that Mr. Mudie had said that Watt was a dangerous character.

FRANCIS STEPHEN.

Sworn the 26th Augt., 1835, Before—

H. C. WILSON, F.P.M.	A. B. SPARK, J.P.
JOHN LAMB, J.P.	JOHN BINGLE, J.P.
CHAS. WINDEYER, J.P.	

SYDNEY, } RICHARD JONES, Esq., J.P., a member of the Council, being sworn depose
To Wit. } and saith:—I know the prisoner at the bar Watt well; he has never been
in my house; he has been in my Office two or three times on business, but I never
shook hands with him or offered him a chair; if he has made such a statement, he
has stated a gross falsehood. I should never think of lowering myself to such a
situation as to do such a thing. I was never in any way connected with him in
any of his writings; he did on one occasion bring me a Newspaper, in which there
was a letter signed "Bow Wow," and he then asked me if I had seen the said letter.
I told him I had, and he then told me that he was the writer of the said letter.
Mr. Mudie called upon me three or four mornings ago, and told me that Mr.
Stephen had given him information that the prisoner stated that I did shake hands
with him and had offered him a chair. Mr. Mudie did ask me if I had any objec-
tion to give evidence on the occasion, and I told him that I had no objection to come
forward and disprove what the prisoner had asserted. Mr. Mudie did tell me that,
if the prisoner's statement was true, he should cut my acquaintance; but I only
considered it as a joke; had it not been a joke, I should have considered that
Mr. Mudie would have acted correctly, if I had done what had been charged; the
prisoner has not been near my office for twelve Months; no difference of manner
would ever have taken place in my courtesy towards the prisoner in consequence
of the Articles signed "Bow Wow." I did not know who was the author of that
Letter till the prisoner told me. I know that Mr. Mudie has had a very bad feeling
towards the prisoner lately for very good reasons; on one occasion he showed me
the prisoner's Trial, it is the same trial which was published in the Colonist; had
such an intimacy as the prisoner is said to have stated existed between him and
myself, I consider it would have injured my character as a Member of Council and
a Gentleman; I should have been very much ashamed of myself had such a thing
been made known to the public.

RICHARD JONES.

Sworn the 26th Augt., 1835, Before—

H. C. WILSON, F.P.M.	A. B. SPARK, J.P.
CHAS. WINDEYER, J.P.	JOHN BINGLE, J.P.
JOHN LAMB, J.P.	

Captain WILLIAM HUNTER, Military Secretary to His Excellency the Govern-
being sworn depose and saith:—I know the prisoner at the Bar (Watt) by sight.
I cannot recognize him as an old Schoolfellow of mine. I never received him or
treated him as such in this Colony. I recollect that some time ago Mr. Mudie men-
tioned to me that the prisoner had asserted that he was a schoolfellow of mine and
on friendly terms, and on that occasion I said I did not believe it. W. HUNTER.

Sworn the 26th August, 1835, Before—

H. C. WILSON, F.P.M.	A. B. SPARK, J.P.
CHAS. WINDEYER, J.P.	JOHN BINGLE, J.P.
JNO. LAMB, J.P.	

JAMES MUDIE, Esqr., still on oath saith:—when the prisoner Watt was in the
Monitor Office, he told me that Captain Hunter was an old Schoolfellow and an old
friend of his, and that Capt. Hunter was very friendly towards him in this Colony.

J. MUDIE.

Sworn this 26th Augt., 1835, Before—

H. C. WILSON, F.P.M.	A. B. SPARK, J.P.
CHAS. WINDEYER, J.P.	JOHN BINGLE, J.P.
JNO. LAMB, J.P.	

SYDNEY, { JOHN NEILSON, Esq., Surgeon, being sworn deposeth and saith:—I knew
To Wit. { the prisoner Watt and have had conversation with him, and he told me in
these conversations that Col. Wilson the First Police Magistrate was a
particular friend of his. I saw a small note with the initials H.C.W. on it; the note
was respecting Mr. Cavenagh; it also concerned some woman, who Watt was said
to have kept, and it stated that the Writer had seen the Governor and that he (either
the Governor or Coll. Wilson) would not entertain the charge as it arose from spleen
on the part of Cavenagh. Watt told me it was Col. Wilson's note and I considered
it as such. Watt said that he either had received it, or it had been sent by
Col. Wilson. Watt managed the affairs of the Gazette on that occasion and I knew
him to be a prisoner of the Crown; the H.C.W. in the letter were all connected. I
do not know who the note was addressed to. I think the Note began with "Sir."
Watt's name was not mentioned in the note. Watt mentioned at the time that it
was concerning a Woman, who Watt was said to have cohabited with; to the best
of my recollection what I have stated was contained in the Note; the Note might
have been addressed to any other person; it was about the size of half sheet of paper
folded up; it is now about fourteen or fifteen months ago, and I did not take much
notice of the circumstance. It was not an application from Watt to Col. Wilson.
Watt I think stated that he had received the Note from Col. Wilson; I am certain
it was not a Note from Watt to Col. Wilson. I am certain it was not a Memorandum
on the Corner of a letter; it was a Note Mr. Mudie spoke to me concerning the
prisoner several times.

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JOHN NEILSON.

Sworn the 26th August, 1835, Before—

H. C. WILSON, F.P.M.	A. B. SPARK, J.P.
CHAS. WINDEYER, J.P.	JOHN BINGLE, J.P.
JNO. LAMB, J.P.	

SYDNEY, { HENRY CROASDAILE WILSON, Esq., First Police Magistrate, being sworn
To Wit. { deposeth and saith:—if the prisoner at the Bar stated that I was a par-
ticular friend of his, he told a lie; if he stated that he received from me
such a Note as was described by Dr. Neilson, he told a lie; I did make a Memorandum
on the turned down corner of a Letter, which I received from the prisoner and I
put my initials to that letter. I returned it to the prisoner open, and it must have
gone through several hands before it reached the prisoner, and that was the only com-
munication in writing I ever recollect having made to the prisoner. I never made
to the prisoner such a communication as Dr. Neilson states was contained in the
Note he has described, and, if he has said so, he has told a falsehood; if such a letter
was shewn by the prisoner to Dr. Neilson, he the prisoner must have committed a
forgery. I think the Governor's name was introduced in my Memorandum to Watt;
my Memorandum was a simple answer to what was contained in the prisoner's
letter. I cannot recollect the precise answer which I sent to the prisoner. Watt's
told me in his letter that there was something to be brought against him, which had
occurred some years ago. I had no communication with the Governor in consequence
of Watt's letter. I had some conversation with the Governor about something of
the kind previous to the receipt of Watt's letter, and I think I ascertained that no
complaint had been made, and I think my answer to Watt was to that effect; if Watt
has shewn any other than my memorandum in his letter, he has shewn a forgery.
I deny the Matter mentioned by Dr. Neilson, as being in my Memorandum to Watt,
having been sent to him by me.

H. C. WILSON.

Sworn the 26th Augt., 1836, Before—

CHAS. WINDEYER, J.P.	A. B. SPARK, J.P.
JNO. LAMB, J.P.	JOHN BINGLE, J.P.

MR. EDWD. WILLIAM O'SHAUGHNESSY being sworn deposeth and saith:—I know the
prisoner Watt and have seen a Note with him, purporting to come from Colonel
Wilson, and stating that he had seen the Governor and that the charge would not
be entertained. I imagined that the charge alluded to was a complaint against
Watt about some Girl, which he was said to have kept. I did not read the note
with particular attention. I cannot say whether the Note was signed by Colonel
Wilson or whether it was addressed to Watt. I think what I saw was written on
the inner leaf of a Note from my recollection of it; it was a Memorandum on the
Note; it appeared to be an Answer to a Note from Watt. I think there was a refer-
ence to the Governor in it. I do not recollect whether there were any initials on it
or not; it was a subject of conversation about Watt and the Woman, and I imagine
that complaint had been made to Colonel Wilson; it might be Eight or ten Months
ago.

E. W. O'SHAUGHNESSY.

Sworn this 26th August, 1835, Before—

H. C. WILSON, F.P.M.	A. B. SPARK, J.P.
CHAS. WINDEYER, J.P.	JOHN BINGLE, J.P.
JOHN LAMB, J.P.	

Remanded till one O'Clock to Morrow.

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Depositions at
prosecution of
W. A. Watt.

HUGH RITCHIE, assd. servant to Dr. Lang, being sworn deposeseth and saith:—I know the prisoner William Watt. I knew that he lived in Kent Street, and I know that a woman used to come there backward and forward, but I do not know whether she was a prisoner or not. I know that the same woman came to the Hospital and was discharged to her Master, but cannot tell whether she was a prisoner or not. I know that the prisoner lodged at a person named Morris in Cumberland Street, but did not see the said Woman there. I know that that woman went to the Factory. I saw her going into the Caravan, and she told me she was going to the Factory; she said she was going up the Country and I understood her to say she was going beyond Liverpool. I have seen Watt and the said Woman in the day time in the house in Cumberland Street. Watt never told me anything. I do not know who rented the house in Cumberland Street. Watt once gave me a letter to a person, who lives at the corner of Princes Street, and he the said person said he "would execute the order." Dalton was the name of that man. I do not know what the Note contained; it was about two years ago; I think it is a fortnight tomorrow since I last saw the said Woman in the Market. I cannot say how long ago it is since I saw the Woman going to the Factory. I think it is above One year but cannot say how long. I saw her in the Market about a fortnight ago, and she then asked me what had become of the prisoner, and I told her that he was in Gaol.

Sworn the 27th August, 1835, Before—

HUGH RITCHIE.

H. C. WILSON, F.P.M.

A. B. SPARK, J.P.

CHAS. WINDEYER, J.P.

JOHN BINGLE, J.P.

JOHN LAMB, J.P.

MR. GEORGE CAVENAGH, being sworn, deposeseth and saith:—I know the prisoner at the bar Watt. I do not know excepting from report that he had cohabited with a prisoner of the Crown, illegally at large. I made a complaint to Mr. Hely on the subject. I could have given no evidence on the case myself, but had Witnesses by whom I considered I could have proved it. I think a man named Pople was one of my Witnesses in the case; it was in consequence of a Statement made to me that the prisoner was living with a woman that I made application to Mr. Hely. I rather think the woman's name was Mary Chapman. I cannot say that I ever saw her. I saw a female in a house in which Watt lodged. I cannot say that the prisoner was living with a Woman when I made these representations; the woman was living at the Gazette Office at the time, and I do not know that he was living with the woman at that time; from the enquiries I made, I ascertained that the woman had been returned to the Factory; it was in November or December last year. I made enquiries respecting the woman as I wished to get evidence against the prisoner. I considered that he had injured me.

G. CAVENAGH.

Sworn 27th August, 1835, Before—

H. C. WILSON, F.P.M.

A. B. SPARK, J.P.

CHAS. WINDEYER, J.P.

JOHN BINGLE, J.P.

JOHN LAMB, J.P.

Case postponed till 1 o'clock to Morrow.

SYDNEY, { HENRY CROSSDAILE WILSON, Esqre., First Police Magistrate, being sworn,
To Wit. { states:—I received Watt's letter at the Quarter Sessions and replied to it on the Instant. I am sure it was either in the double down corner or side, I wrote the answer. It was on the other side of that paper he had written on. There was a previous written application from the prisoner himself, or he came to me here and begged I would give my opinion of his Character, if he were complained of, and I said I would. I do not know how many months it is since the conversation occurred. I understood it to be an occurrence that took place two or three years before. It was a respectful application, and I then knew nothing of his being an Author. I only knew from the records of this office that he was not a drunkard, irregular or had troubled the Police; my Answer was that I was then engaged at Quarter Sessions and not going to the Bench at all, but, were I on the Bench I should not entertain such a charge of two or three years old.

I* stated distinctly that there never was such a complaint made to me. The communication from Watt I think was simply expressing his alarm at such a charge being brought against him; I once sent a Constable for prisoner. I never declined entertaining the case alluded to in the letter, as nothing of the kind was brought before me; if the Matter had been brought before me and was such as Mr. Moodie described, I should have entertained it; it was in consequence of the first communication from the prisoner whether written or Verbal that I mentioned it to the Governor.

H. C. WILSON.

Sworn the 28th August, 1835, Before—

CHAS. WINDEYER, J.P.

A. B. SPARK, J.P.

JOHN LAMB, J.P.

JOHN BINGLE, J.P.

* Marginal note.—xxd. by Major Mudie.

SYDNEY, { Mr. EDWD. WM. O'SHAUGHNESSY, being sworn, deposeth and saith:—
To Wit. { remember that a female came to the Gazette Office, and sleeping there.
I was not asked to Breakfast with Watt and that female. Watt then
resided at the Gazette Office. I do not know that that female was a prisoner of the
Crown. I saw the woman. I should know her again; she was there three or four
times, and I believe stopped in Watt's apartment. I have known her to stop to
breakfast with Watt; a man named Poppel was in the office at that time, and he
sometimes attended upon Watt in common with upon myself. I never saw the said
female after she left the Gazette Office. It is I believe about 12 months ago since I
saw her there. I* never breakfasted with Watt and that female. I have seen other
females in Watt's rooms; any person could come in and go out of Watt's apartments
during the night without my knowledge. I saw the female there in the night and I
saw her there in the morning.

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I† saw the woman there at eleven o'clock at night, and I saw her there in the
morning from 8 to 9 o'clock, and my impression was that she slept there all night;
this occurred to the best of my recollection some two or three months before I saw
the letter I have alluded to in my former deposition. Watt and myself used to
Breakfast together, and my reason for not breakfasting with him, when the said
woman was there, was a mere matter of taste. I did not choose to go in. I have
heard that the woman's name was Mary. I believe that that was the identical
woman about whom the complaint was to be made. I did not say that I would not
breakfast with Watt while that woman was there; there‡ was not talk of Complaint
being made then; Watt did at one time use the Bedroom as a sort of office, and both
male and female coming there on business used then to go into that room. I cannot
swear that Watt did not use the bedroom as an office at the time I saw the said
woman there. I do not know that the said woman did not go away at night and
return to breakfast next morning; it might have been concerning other women
that the complaint was made, to anything I know to the Contrary. I may have been
casually in the room with Watt and the Woman, and I never saw any intimacy
between them which would induce me to imagine that she was cohabiting with him;
the complaint I considered was to be made of a thing that had occurred; it was
generally talked of; at the time the matter was talked of, it was talked of as a
matter long passed, two or three or four Months passed. I understood the com-
plaint to be about general cohabitation and the woman sleeping in the office, and
that was two, three or four Months passed. I heard it generally talked of that
Mr. Cavenagh was preferring a complaint. I cannot swear it was not ten months
after the woman was there that the complaint was talked of. I do not think the
woman was in the habit of coming there at the time the complaint was talked of.

Sworn the 28th August, 1835, Before—

E. W. O'SHAUGHNESSY.

H. C. WILSON, F.P.M. A. B. SPARK, J.P.
CHAS. WINDEYER, J.P. JOHN BINGLE, J.P.
JOHN LAMB, J.P.

SYDNEY, { Mr. WILLIAM DALTON, Cabinet Maker residing in Princes Street, being
To Wit. { sworn, deposeth and saith:—I know the prisoner Watt and did make
some chairs and I think a table by his Order. Watt called himself and
ordered the things; there was a man with him when he once called; no female
came with him at any time. I understood the things were for himself; he gave
me his address and I took them to his own house. I think I went and shewed the
man where to take them to and went into the house. I have reason to know the
house very well; it was in Kent Street. I saw some female there. I do not
think I should know her again. I possibly might have some recollection of the
woman if she was brought before me; she came to my house once and paid me
part of the money for the furniture; she did not tell me that she was Mrs. Watt;
she said she came from Mr. Watt to pay a balance of Account; she said she
wanted some more things; she did not give me any order and I do not think I made
any more things; she came as a Messenger; it is about 18 Months or from that to
two years ago since the last payment was made to me for the furniture. I do not
think it was more than a month or six weeks after the furniture was ordered that
the last payment was made to me. Watt told me that he was going to furnish a little
Cottage.

WM. DALTON.

Sworn the 25th August, 1835, Before—

H. C. WILSON, F.P.M. A. B. SPARK, J.P.
CHAS. WINDEYER, J.P. JOHN BINGLE, J.P.
JOHN LAMB, J.P.

JOHN DALLY, dealer, residing in lower George Street, being sworn deposeth and
saith:—I have seen the prisoner Watt. I might and might not have received an
Order from him to let some female have some goods. I think there was such an
Order, but cannot recollect to what amount. I do not know that female's name. I

* Marginal note.—xxd. by Watt. † Marginal note.—xxd. by Mr. Lamb.

‡ Marginal note.—xxd. by prisoner Watt.

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think the order was to let the bearer have to a certain amount. I cannot say that I should know that female again. I took her at the time to be Watt's washer-woman. I am positive the Bearer's name was not mentioned. I was not very intimate with Mr. Watt, but from my knowledge of him I would trust him to any amount. I think it is upwards of twelve Months ago since I received the order. I know Watt's hand writing and should have delivered the goods to any person. I had received several orders from him and I never recollect his mentioning in them the name of the person in whose favor they were. I think the amount of the Order was about sixteen shillings. I swear it was not a pound.

JOHN DALLEY.

Sworn the 28th August, 1835, Before—

H. C. WILSON, F.P.M.
CHAS. WINDEYER, J.P.
JNO. LAMB, J.P.

A. B. SPARK, J.P.
JOHN BINGLE, J.P.

SYDNEY, { MR. JOHN SMITH, employed in the Gaol Hospital, being sworn deposesh
To Wit. { and saith:—I know the prisoner Watt. I have known him for several
{ years and have known him intimately. I knew him when he lived in
Kent Street. I have eaten and drank with Watt and two females, one of the
females was named Pegg. I believe the house belonged to Pegg. I do not know
who rented the house. I believe the house belonged to Pegg; we had two cottages
together. I have conversed with prisoner frequently; there was a Mary there. I
cannot say I heard the prisoner call her Mary. I never was in the house in the
evening. I did not see her there early in the morning. I used generally to go with
Watt himself. I did not know him when he lived at a person's named Morris and
did not visit him there. I could not take it upon me to say with accuracy how
long Watt lived in Kent St. I did not generally see the female Mary when I called
at Watt's. I should know that female again but have no idea where she is now.
Watt never told me that he had some thoughts of becoming a married man. I
never heard that the female Mary had been delivered of a child, and that Watt was
the reputed Father. I have frequently heard it said that Watt was living with a
prisoner of the Crown, but never was satisfied that that was the case. Watt never
stated to me that a complaint had been made that he was cohabiting with a female
prisoner. Watt was in the same apartment with me during the time he was in the
Gaol with the exception of the first night; he did not to my knowledge receive any
letter from the prisoner Mary during the time he was in the Gaol. I swear that it
is not within my knowledge that Watt cohabited with a female prisoner of the
Crown; it was commonly reported that Watt was living with a prisoner of the
Crown; the report I have no doubt must have alluded to the particular woman
(Mary). I never heard from Watt himself that Mary was a prisoner of the Crown.
Mary herself told me in Gaol that she was a prisoner of the crown. I do not know
for what reason Mary was in Gaol; she did not tell me why she was there, and I
am not aware why she was there. I have seen Mary in the house at Pegg's lodgings
in the day time between the morning and the evening. Mary did not tell me that
she was illegally at large; to the best of my recollection, it is twelve or fifteen
months ago since I saw Mary in the Gaol. I do not recollect the circumstance of
her mentioning the name of Watt during the conversation which I had with her.
I am the dispenser of Medicines in the Gaol. I never heard her called by any
other name than Mary. Mr. Watt used to call her Mary when he spoke to her; when
I saw Mary in the Gaol she appeared to me to be in the family way. It* is since
Mary was in the Gaol that I have heard the rumour that Watt had been living with
her. I believe Mary went to the Factory.

J. SMITH.

Sworn the 28th August, 1835, Before—

H. C. WILSON, F.P.M.
CHAS. WINDEYER, J.P.
JOHN LAMB, J.P.

A. B. SPARK, J.P.
JOHN BINGLE, J.P.

ROBERT POPPLE, a prisoner of the Crown assigned to Mrs. Howe, being sworn, deposesh and saith:—I know the prisoner Watt. I also know Mr. Smith. I am employed at the Gazette Office and was in the habit of attending upon Watt. I frequently attended to him at breakfast. Mr. O'Shaughnessy and Mr. Jelf used to breakfast with him, and I have seen a female with him called Mary. I was not in the habit of letting her out in the morning. I do not know her surname. I do recollect that Mr. O'Shaughnessy refused to go to breakfast with Mr. Watt. I think Mary was there that morning but cannot be certain. Mr. O'Shaughnessy has several times refused; sometimes Watt used to sleep in the front room; there is a communication by a passage between that room and another room where Mr. Watt used to sleep. Mr. Smith was in the habit of frequently visiting Watt. I do not remember that Mr. Smith ever was at breakfast with Watt and Mary. I never knew that Mary slept at the Gazette Office but once. Mr. Watt came home and I told him that Mary was there, and he told me that he had a good mind to put me in the Watch-house. Mary slept in Mr. Watt's room that night, and Mr. Watt slept in my room and I locked him in there. I have taken papers and things to Mr. Watt when

* Marginal note.—xxd. by Watt.

he lived in Kent Street; it was a house in which Mr. Pegg lived in, and I know that the woman Mary was there. Mary did not to my recollection tell me that Watt had proposed marriage. I did not notice that Mary was in the family way. I cannot swear that Mary ever slept but one night in the Gazette Office. I have seen Mary in the Gazette Office repeatedly as late as ten or eleven o'clock at night. It was in the room in which Mr. Jelf and Mr. O'Shaughnessy used to be, and they were there at the time. I have seen her come in the morning just before breakfast, neatly dressed with her bonnet and veil on. I have not seen Mary since the time she slept in the Gazette Office, excepting the next day when I saw her in the Market and that is upwards of twelve Months ago. I have seen Mr. Jelf at breakfast with Watt and Mary. Mr. Watt's reason for telling me that he had a good mind to put me in the Watch-house was because I had admitted her or any other person during his absence. Mr. Watt's bedroom is a considerable way from the front room and he would have to pass Jelf's door along a passage to go to his Bedroom. O'Shaughnessy's bed room was next to Mr. Watt's and Mr. O'Shaughnessy from his room could see all along the passage. I will not swear that Mary was there the morning O'Shaughnessy refused to come to Breakfast. Mary could not have been there all night, when I have seen her come in in the mornings; if she was, she might have been up very early as I am myself the first in the house. I do not know of my own knowledge that she ever slept there excepting the night I have mentioned. Mr. Watt has been living nearly two years in the Gazette Office; it was about 5 or 6 Months after I saw Mary at breakfast with Mr. Watt that I again saw her there, and that was the time that Mr. Watt was displeased at me for letting her in; she was very well dressed and had a parasol and black Veil on; the reason that Mr. Watt was locked in my room was in order that he might avoid seeing Mary (who had said she was determined to see him). I told Mary that Mr. Watt would not be home all night in order that I might tire her out by keeping her waiting; when I let Mr. Watt out of my room next morning, he went to his usual occupation; it was against Mr. Watt's wish that she was in the Gazette Office on this occasion. I heard that there was a Complaint to be made against Watt about the same Mary, that is about 12 Months ago, and I heard it was Mary who was going to complain herself. Mr. Cavenagh did say that he would make Mr. Watt repent it; they were then Quarrelling together, and Mr. Cavenagh was going away. Mary was not living with Mr. Watt in the office; he slept in the office and lived in the office for these last two years; to the best of my remembrance, it was after Mr. Watt expressed his displeasure at my letting Mary in that Mr. Cavenagh was going to make a complaint.

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Depositions at
prosecution of
W. A. Watt.

his
ROBT. X POPPLE.
mark.

Sworn the 28th Augt., 1835, Before—

H. C. WILSON, F.P.M.	A. B. SPARK, J.P.
CHAS. WINDEYER, J.P.	JOHN BINGLE, J.P.
JOHN LAMB, J.P.	

Case postponed till one o'clock on Monday.

JOHN RYAN, Constable in the Sydney Police, being sworn, deposes and saith:—I received instructions Friday night from Mr. Moodie to go and bring a Woman named Chapman to Sydney. I went for the said Woman to Spring Creek, and was there informed by her Mistress, who I know very well, that she gave her a pass on Friday to go to Liverpool on her own business; subsequently I traced a Woman seeing the back of a Gig in the Bush and was informed that a man and woman had crossed the river; the man was described to me as a tall man in a Shooting Coat. I was informed at the Eleven Mile stone from Sydney that a man in a Gig answering the description of the said man had stopped there with a woman. I also heard from a person, who had stopped at Brown's, that a man answering the description of that man had enquired his way to Spring Creek, and they told me at Brown's that he stopped there with a woman in a Gig on his way back; the name of the Mistress was Shepherd; she told me the pass was for seven days. I left the Subpoena at the house and told the Mistress to send her to Sydney when she returned home.

JOHN RYAN.

Sworn this 31st Augt., 1835, Before—

H. C. WILSON, F.P.M.	A. B. SPARK, J.P.
CHAS. WINDEYER, J.P.	JOHN BINGLE, J.P.
JOHN LAMB, J.P.	

MR. JAMES MCINTOSH, Clerk in the employ of Mr. Manning, Junr., being sworn, deposes and saith:—I know the prisoner Watt. 2 years and a half ago, I boarded and lodged with him and at that time there was a woman named Mary living with him. I understood she lived with him. I cannot swear that she slept with him; they were obliged to pass through my room; they generally retired very early, sometimes before ten, unless business kept Mr. Watt. I have no doubt they remained there all night; there was no other entrance but through my room, and I scarcely think they could have left the room without my knowledge. I think I remained there about 3 Months; as far as I recollect, the said Mary eat and drank with Watt,

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and, as far as I could see, they lived as man and Wife together. I remember Mr. Jelf paid a visit to Mr. Watt while I was there. I do not recollect that Mr. Jelf slept there that night. I recollect there was a row there one night; but I was in Bed and did not get up. I might have seen Mary on the following day but cannot tax my Memory now. I know a person named Smith. I have frequently seen him at Mr. Watt's; he might sometimes have taken breakfast or dinner with Mr. Watt; there were other persons in the said house, a person named Pegg and his Wife. I have seen Mrs. Pegg in company with Mary sometimes. I cannot say that Mary was in the family way. I have no knowledge of her having been delivered of a child and that Watt was the reputed Father of it; it* might be three years ago I have seen other women there besides Mary. I have seen several occasionally. I cannot recollect having seen a person named Jemima there. I have some recollection of having seen Jemima there. I do not know who Jemima is nor who Mary is; it was in Kent Street; I paid my lodging money to Watt. I boarded with Watt and paid for my board to Watt. I have no doubt that Mary acted as Mistress of the house. I have seen Mr. Watt come out of the room first of a morning, and Mary come out afterwards. I know nothing after I left the house only from hearsay. I think some party in the house gave Mary in charge. I cannot say that she was assigned to Mr. Pegg; it was Mary who used to go into the bedroom with Watt. I was in the Gazette Office when I lodged with Watt; it might be three years since I left the Gazette Office; I stopped but a few days with Watt after I left the Gazette Office; it might be three years and a half ago; to the best of my recollection, Mary never told me in the presence of Watt that she was a prisoner of the Crown. I do not know that Jemima and Mary was the same person. I know that Watt held a Ticket of Leave at the time I allude to. I think I heard him say so himself; I think it was after he had the Ticket of Leave. I cannot say when Watt got his Ticket; the row I have alluded to might have occurred before; the impression on my mind is that it must have been after. I should have no difficulty in identifying Mary if she was produced before me. I did not come here voluntarily to give my evidence. I was Suppoena'd and never spoke to any person on the subject of my evidence. I never had any conversation with Mr. Mudie. I cannot tell how I came to be Suppoenaed.

J. MACKINTOSH.

Sworn this 31st Augt., 1835, Before—

H. C. WILSON, J.P.	A. B. SPARK, J.P.
CHAS. WINDEYER, J.P.	JOHN BINGLE, J.P.
JOHN LAMB, J.P.	

SYDNEY, {
To Wit. { MR. WILLIAM BLERE HALDEN, Reporter at the Gazette Office, being sworn
deposeth and saith:—I know the prisoner Watt. I am on intimate terms
with him and have been so for some time. The prisoner never lodged at
my house with a female at the time that Watt was lodging in my house. I did make
an application that a female then living in the house should be assigned to me. I
am acquainted with the name of the Female, I applied to have assigned to me; her
name is Jemima Chapman; the prisoner never asked me to have this woman assigned
to me. I cannot say why the woman was not assigned to me but have my surmise.
I do remember a disturbance about Constables coming to apprehend Jemima Chap-
man; the Constable did not take her to the Watch house in the usual way as a
Female prisoner, absent from her Service. I do not remember ever having seen
Jemima Chapman in the presence of the prisoner. I never saw her so since the
time she was taken by the Constable. I never saw her at Morris's on the Brickfield
Hill. Watt lodged with me. Jemima Chapman did not live in the same house
at that time; on the very day that I went to live in this house, Jemima Chapman
was taken and sent to the Factory, that was in January, 1834. I do not know where
that female is now. I have seen her lately. I have had no conversation with nor
any communication from the prisoner respecting that Woman for the last two or
3 days. I have not directly, and do not believe I have had any indirectly. When
did you last see Jemima Chapman the female alluded to in these proceedings (by
Mr. Stewart)? (answered by Mr. Halden) I saw her yesterday about sun set. I left
her on the Parramatta road, near about the second mile stone on the road side not at
any house; it is the female alluded to in my deposition as the woman that was taken
by the Constables since January, 1834; Watt lodged with me in January, 1834;
there was no female with Watt. I think it was about the Middle of the Month the
female applied to me herself to get her assigned to me; she stated to me that she
was the assigned servant of a person named Pegg, that they had illused her very
much and had agreed to transfer her to any one else. I enquired of Pegg, and he
signed the Transfer; on presenting the Transfer at the office of Mr. Helv, I found
that she was not the assigned servant of Pegg but the assigned servant of Mr. Robert
Campbell of Bligh Street. Mr. Robert Campbell sent her to the Bench and returned
her to Government, having no further occasion for her services. Mr. Campbell con-
sented to transfer her to me, and I believe it was in consequence of some repre-
sentation from Pegg that Mr. Campbell afterwards withdrew his consent; the female
considered she was properly assigned, so did Pegg, and I believe Mr. Campbell did
also. I believe the mistake originated by the female being called Mary instead of

* Marginal note.—xxd. by pri- over Watt.

Jemima Chapman; up to that period, the female considered herself under Pegg's control, and Pegg exercised an Authority over her. Pegg threatened to send her to the Factory and I believe that it was in consequence of my telling him that she was not regularly assigned to him that he went to Mr. Campbell and made some representation, which induced Mr. Campbell to return the Woman to Government. I have known the prisoner five years and during that time never knew him Guilty of telling a falsehood; he never told me a single falsehood that I have ever detected. I never heard him accused of being a liar. I know Mr. Jones by sight. McIntosh was not living with me at the time Jemima Chapman was taken into custody. A Constable called upon me to day from Watt, and told me that Watt desired him to tell me that if I knew where the Woman was to produce her. Watt told me so himself.

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W. A. Watt.

W. B. HALDEN.

Sworn the 31st Augt., 1835, Before—

H. C. WILSON, F.P.M. JOHN LAMB, J.P.
CHAS. WINDEYER, J.P. JOHN BINGLE, J.P.

It being the opinion of the Bench that the Witness was Guilty of gross prevarication, he is reprimanded and cautioned to be more circumspect for the future.

Case postponed till Wednesday. Remanded for further examination. H.C.W.
F.P.M.

SYDNEY, { ELLEN PEGG, late Collins, a prisoner of the Crown, assd. to her husband
To Wit. { James Pegg of Kent Street, maketh Oath and saith:—I know the prisoner
 { Watt and have lived in the same house with him; he lodged with me at
 { one time. I believe I know a woman named Mary Chapman; she was not to my
 { knowledge living with the prisoner Watt. I did give the said woman into Custody
 { at one time as she was insolent to me, and I considered that she was my assigned
 { servant; but, when I found that she was not assd. to me, I sent her to her Master
 { Mr. Campbell and he paid 5s. for her and ret'd. her to Govt. I considered that the
 { said female was assigned to me as my papers were signed by Capt. Rossi and Mr.
 { Laidley. I gave these papers in at the Barrack, and afterwards considered the woman
 { as my assd. servant. Mr. Laidley and Capt. Rossi filled up the Application. I really
 { believe that Mr. Watt did not know that Woman at the time. I never made known
 { to any person that Watt and the said Woman were cohabiting together. I never
 { made any communication to Mr. Cavenagh that Watt and the said Woman were
 { cohabiting together, nor did I ask him to interfere in the Matter. I cannot say
 { that I know Mr. Cavenagh. I do not know a person named Jelf. I remember an
 { occasion when myself and my husband had some words together, and I on this
 { occasion gave the woman into custody in order that she might not hear what myself
 { and my husband were saying. Watt was in Bed at this time; the Woman had not
 { been to bed, she was nursing my child; there was a strange man who called there
 { that night. I cannot exactly say where the strange man was at the time of the
 { row. I believe he was in the house at that time; he was there at tea. I do not
 { remember whether he was a tall or a short man, nor whether he was pale or red faced.
 { I never told Mr. Cavenagh or any other person that the prisoner Watt was cohabiting
 { with the said Woman at that time; to the best of my opinion, Mary Chapman
 { remained in my house from the 7th of July to the first of October, two years ago
 { next October, and I then sent her to Mr. Campbell to whom she was assigned. I
 { think the prisoner Watt was a lodger in my house between six and seven Months.
 { I understood him to Sleep at Mrs. How's Office, but he used to take his Meals at
 { my house. Watt found his own bed; a Carpenter brought some chairs and a table
 { to my house and left them there; it was some chairs and a table; they were not
 { placed in Watt's room; they were placed in my parlour; Watt used to dine in my
 { parlour. Mary Chapman dined at the same table as I did myself sometimes; when
 { I was occupied with young children, I used to send Mary to wait at table in my
 { place. Watt dined at the same table as I did many a time. Watt lodged in my
 { house during the whole of the time that Mary Chapman was with me and after
 { that also he always paid me for it. Mary Chapman dined at the same table as I
 { did when Watt and several other decent young men dined at the table. I do not
 { know who filled the application up. Mr. Laidley and Captain Rossi signed it. Watt
 { did not give me the form of application; my husband got it himself. Watt was
 { living with me three months before I applied for the said Woman. I* never got
 { any answer to my papers from Hyde Park Barracks between the time of my applica-
 { tion and my turning her in. I always treated her as my Assigned servant and on one
 { occasion, when she was insolent to me, I threatened to turn her in.

† I saw Mary Chapman at Mr. Campbell's first. Watt found his own Bed at first; he told me that he had a good deal of writing to do and slept at the Gazette Office. Watt brought his Bed with him when he first came, and the chairs and table were sent in two Months before Mary Chapman came to my house; there was no other persons lodging in my house at the time Watt lodged there. Mr. McIntosh occasionally slept at my house; he stopped in the next room to the parlour and that room adjoined Watt's room, and Watt had to pass through McIntosh's room to go into his own room. I used generally to dine at the table with Watt. Mary always

* Marginal note.—xxd. by Watt.

† Marginal note.—xxd. by Bench.

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Slept in my room with my youngest child. I never had the Assignment or Transfer of the said Woman. I had no other reason for giving Mary Chapman into Custody but what I have stated. Mr. McIntosh never paid me any rent; Watt used to pay me for him. Watt slept in the next room to McIntosh; he used sometimes to sleep at my house and sometimes at the Gazette Office. Mary was not in the habit of being out late at night. I never knew her to spend the night out while she was with me. I used to call her up in the morning; my* husband is a free man and that was the reason I considered myself entitled to an Assigned servant: it was my husband who applied for the woman; my husband told me that Captain Rossi and Mr. Laidley signed the application. I do not know that Mary was in the family way. I had had her from July to October in my service before I discovered that she was not assigned to me; she slept in the next bed to my husband and myself every night, and could not have been absent without my knowledge. I have not seen Mary Chapman lately; it is two years next October since I saw her last.

Sworn the 2nd Sept., 1835, Before—

H. C. WILSON, J.P.

A. B. SPARK, J.P.

CHAS. WINDEYER, J.P.

JOHN BINGLE, J.P.

JOHN LAMB, J.P.

her
MARY X PEGG.
mark.

MR. GEORGE JELF, being sworn, deposeseth and saith:—I have not been in the office during any time of the examination in this case to-day. I know the prisoner at the Bar (Watt) and I also know Mrs. Pegg. I do recollect paying a visit to Watt when he lived in Mrs. Pegg's house. I was at that time in the service of Mr. Cox, but had come to Sydney. I slept in the house that night; there was a great noise in the house that night. I was sleeping in the same room as Mr. McIntosh. I got up and dressed myself. I believe that Constables came in below but I did not see them. I knew Mary Chapman very well, and on the occasion of my Visit to Watt I saw Mary Chapman; that was not the first time I had seen her. I had seen her before in the presence of Watt on the Brickfield Hill. Watt was lodging at Morris's at that time. I think in introducing Mary Chapman to me Watt said this is my "better half." I only visited them once at Morris's. Mary Chapman was very large in the family-way; it was the latter part of last year October or November that I last saw Mary Chapman in the presence of Watt; when I saw them at Morris's, I took a little refreshment with them as I was obliged to be in the Country that afternoon. Mary Chapman provided the refreshment. Watt sat down with us; when I was employed in the Gazette Office I know that Mary Chapman used to visit Watt there, and she stopped there all night two or three times; she took her Meals with myself and Watt. I did make an observation at breakfast one Morning, after Mary Chapman had been stopping in the office all night, that Watt and her had made so great a Noise during the night that I could not get any Sleep. I know that about that time that there was a complaint to be made about Watt and that Woman, and I on one occasion said to Watt that I thought that there would be a disturbance about it; he shewed me a letter on one occasion. Watt told me it was from Coll. Wilson; the prisoner did not to my knowledge state that he had any influence with the Colonel. I read part of the letter which Watt said he received from Coll. Wilson; it was a letter from Watt to Colonel Wilson, and the reply was that he the (Writer) had seen the Governor and that the charge or case would not be entertained, and Watt remarked to me "so you see I am all right." I considered the charge mentioned had reference to me, which it was said Mr. Cavenagh intended to prefer; it might have been about the latter end of January; it was in October or in November that I made an observation to Watt that I thought there would be some disturbance about the matter; it was not then that Watt shewed me the letter; it was in January that Watt shewed me the letter two or three months after I made the observation to him about the disturbance. I did not read Watt's letter and only imagined it had reference to the woman's visiting him, from what was generally talked about. I never saw any other correspondence from Colonel Wilson to Watt. I never heard Watt say that he had any other letter from Coll. Wilson; this reply was written on the backs of Watt's letter; I did not see Watt's letter on which the Answer was written but he told me it was about Mary (Mary Chapman as I supposed), the same Woman that I had seen at Morris's, at Pegg's and at the Gazette Office, in company with the prisoner. I* cannot exactly say how long it is since I saw her at Pegg's; it might be between one and two years ago. I saw her at Morris's first. I cannot swear how long ago it is since I saw her at Morris's. I think Mrs. Morris did drink something when I was taking refreshments there with Watt and Mary; she acted as a servant and called Mary "Mrs. Watt." I never had any connexion with Mary myself. I believe I was on one occasion locked up in a room with Mary; it was at Watt's request, fearing Mrs. Howe might come in. I do not think that Watt saw her that evening but he had a knowledge of her being there. I never boasted of having

* Marginal note.—xxd. by Watt.

had connexion with that woman. Mary slept in Watt's bed that night. Watt did not sleep in his bed; he slept in the lower part of the house and Mary slept in the upper part of the house; my room adjoined where Mary slept; you have to go into a small passage to go from one room to another. I most decidedly swear that I did not sleep with Mary in Watt's bed room that night. I did not go into that room that night. I did lock myself in with Mary at Watt's request. O'Shaughnessy slept in his room; that night he and I were reading over advertisements together till a late hour; this was some time at the latter end of the year, some time about October or November, just before Cavenagh left; he left some time in December or January. I think it was in January, I cannot exactly specify the time to a Month or two. I have had an Animosity against the prisoner because I considered that he had done me an injury, but it is not such an Animosity as would induce me to perjure myself when I spoke of the Noises I had heard. I know it was made by Mary and Watt. I heard their voices.

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W. A. Watt.

GEO. JELF.

Sworn this 2nd Sept., 1835, Before—

H. C. WILSON, F.P.M.	A. B. SPARK, J.P.
CHAS. WINDEYER, J.P.	JOHN BINGLE, J.P.
JOHN LAMB, J.P.	

MR. GEORGE JILKS, Chief Constable of Sydney, being sworn, deposeth and saith:—I know the prisoner Watt. I have no personal knowledge of him. I know nothing of him but from hearsay. I know that he has not Mustered since the new Regulations. I do not to my own knowledge know that he holds a Ticket of Leave; he does not appear on any List of persons who did not Muster here; this is the Office at which persons holding Tickets of Leave under the old Regulations used to Muster; the prisoner never did to my knowledge Muster at this Office.

G. JILKS.

Sworn this 2nd September, 1835, Before—

H. C. WILSON, J.P.	JOHN LAMB, J.P.
CHAS. WINDEYER, J.P.	JOHN BINGLE, J.P.

MR. HENRY ST. JOHN CALMAC, Clerk in the Office of the Princ. Supdt. of Convicts, being sworn, deposeth and saith:—I know that the prisoner at the Bar William Watt is on the records of the office of the Princ. Supdt. of Convicts as one Individual holding a Ticket of Leave; on each Ticket it is printed that the holder thereof should Muster Quarterly at that Office; it does not appear that prisoner has Mustered since July, 1834. I cannot say to my own knowledge that he is the individual holding the said Ticket of Leave; the prisoner admits that he is that individual.

H. ST. JOHN CALMAC.

Sworn the 2nd Sept., 1835, Before—

H. C. WILSON, F.P.M.	A. B. SPARK, J.P.
CHAS. WINDEYER, J.P.	JOHN BINGLE, J.P.
JOHN LAMB, J.P.	

Postponed for prisoner's defence till one o'clock on Monday next.

HENRY CROASDAILE WILSON, Esqre., being sworn, deposeth and saith:—I was impressed by the prisoner's letter to me that the complaint which was about to be made of him was of a by gone transaction, and I was under the impression that it was at least two years past. I do not recollect hearing of it from any other person but from the prisoner.

H. C. WILSON.

Sworn this 7th Sept., 1835, Before—

H. C. WILSON, F.P.M.	A. B. SPARK, J.P.
CHAS. WINDEYER, J.P.	JOHN BINGLE, J.P.
JOHN LAMB, J.P.	

MR. H. ST. JOHN CALMAC, being sworn, deposeth and saith:—I am (from the records which I have in my charge) able to swear positively that the prisoner has not mustered since July, 1834. Watt's Ticket was dated in the year 1832; the new Regulations are now in force, which came under the Notice of the Police; they came into operation on the 1st July; the Chief Police Magistrate now Musters Ticket of Leave holders. I mustered them formerly, and, even when parties did not Muster, no Notice was taken of it unless the parties were specially brought forward; parties might be brought on that charge. I received no other instructions than merely to Muster the Ticket of Leave holders; my reason for not reporting the prisoner was an Oversight; I should not have been stepping out of my duty to have reported him, for some Quarters persons, who had lost their Tickets, were not Mustered; but afterwards it was found expedient that parties, who had held Tickets and had lost them, should make an Affidavit to that effect; the old Regulations respecting persons holding Tickets of Leave have now ceased. I should suppose any of the Police Magistrates might muster Ticket of Leave holders.

H. ST. JOHN CALMAC.

Sworn this 7th Sept., 1835, Before—

H. C. WILSON, J.P.	A. B. SPARK, J.P.
CHAS. WINDEYER, J.P.	JOHN BINGLE, J.P.
JOHN LAMB, J.P.	

1836.
28 Feb.

A letter to be written to H.M. Attorney General requesting to know for the guidance of this Bench whether a Charge of being an habitual Liar can be entertained by this Bench against a Ticket of Leave holder.

Case postponed till Wednesday at one o'clock, Police Office, Sydney, 9th Sept., 1835.

Decision
by bench.

The Bench informed the prisoner that he would not be called upon for his defence either on the charge of being an habitual liar or his having cohabited with a female prisoner of the Crown, and that the only defence required of him is that for having failed to Muster his Ticket of Leave.

Prisoner offered no defence.

The Bench order that the circumstance of his having failed to Muster should be reported for the information of His Excellency the Governor; discharged to the Chief Constable.

A true Copy:—C. DELOHERY, C. Clerk of Police.

H.C.W.
F.P.M.

[Sub-enclosure No. 2.]

MR. H. K. JAMES TO MR. J. MUDIE.

Sir, In compliance with the request contained in your letter of the 1st Instant, I beg to annex an extract from the register of St. John's Church, Parramatta, of the Baptism referred to.

I have, &c.,
for the registrar, H. K. JAMES.

Register of
birth of child
of W. A. Watt.

EXTRACT REFERRED TO IN THE PRECEDING LETTER.

When Baptised.—1834, June 1st, No. 989.

When Born.—1834, Apl. 17.

Child's Christian name.—June.

Parents' Names.—Christian and Surname: Wm. Watts and Jemima Chapman.

Quality or profession.—Convicts' child, Factory.

By whom Ceremony was performed.—Chas. Dickinson, Chaplain, Field of Mars.

I Certify the above to be a true and correct extract from the register of St. John's Church, Parramatta.

for the Registrar,
H. K. JAMES.

Archdeacon's Office, Sydney, 3rd Sept., 1835.

[Enclosure No. 3.]

MEMORANDUM.

ON Monday the 6th August, 1830, Mr. Maclaren agreed with the late Church and School Corporation to take a Flock of Sheep (consisting of 690 Head) upon the following Terms, Vizt.:—

That he Should be allowed (on Condition of Curing them of the Scab which they were then Infected with) to keep them for Three Years, and to receive $\frac{1}{3}$ rd of the Produce and the *whole* of the Wool during that Period, which time expired on the 6th Augt., 1833.

Upon being applied to by the late Corporation for the delivery of the Sheep in Question, Mr. Maclaren Stated that they were then Lambing; and it would be a matter of regret and serious loss to him, if they were removed until the Spring of the following year, which was allowed, although there is little doubt that they were put to the Ram at such a time in order that they Should Lamb at that Particular Period to enable him to have another third of the Produce. Upon being subsequently applied to for the Delivery of the Sheep, He Stated that, having kept the Sheep for the accommodation of the Corporation, he should keep them for the then year's Clip of Wool, as a *remuneration* for his expense and Trouble respecting them.

On the 19th Novr., 1833, after my Appointment to the office of agent to the late Church and School Corporation (which I have the honor to fill), I had frequent Interviews with Mr. Maclaren respecting the delivery of the Sheep in Question, when he repeatedly Stated that he did not know me as such Agent (altho. referred by

Report by
H. Fisher *re*
sheep of church
and school
corporation
held by
J. Maclaren
on terms.

me to the Government Gazette announcing my appointment as such Agent), and, with regard to the Wool, he Stated that he had none that belonged to the Corporation and that he never troubled his head about such Matters, leaving them all to his Overseer Mr. Wright: and, upon my requesting that he would let me have Such his determination in Writing, he refused, Stating that he was advised not So to do, and that he had received no Courtesy, and none would be given, alluding to Some Letters which he had previously written to the Commissioners for winding up the affairs of the late Corporation, consisting of the Venerable the Archdeacon, the Auditor of the Affairs of the late Church and School Corporation, and other most respectable Officers of the Government, which (Such being their opinion of his Conduct) they did not think proper to condescend to give a reply. After such repeated Interviews which I had with Mr. Maclaren, I received a Letter from him, dated 21 July, 1834, Stating that, if I would obtain a Copy of a communication from Mr. Charles Cooper (the Secretary of the late Corporation) to him on the Subject of such Sheep, he would Submit the whole of the Correspondence to me, which I accordingly furnished him with. After which I had several Interviews with Mr. Maclaren, when he Stated that he was willing to give them up to any Person properly Authorised, and also upon his Character as well as his Overseers being cleared from certain aspersions, which he Stated had been made against each of them; (but knowing that the Veracity of the Commissioners of the late Corporation had been brought in competition with that Gentleman's) and not wishing to place myself in a Similar Situation, as well as to avoid any Doubt or Caviling on the Subject, I in every Interview requested that he would put any offer or Proposition he had to make in writing, which he repeatedly promised to do; but such I never received. In consequence of which it was found expedient that the Law Officers of the Crown should take legal measures to enforce the Delivery of such Sheep; accordingly the Attorney General wrote to Mr. McLaren, threatening proceedings unless he immediately gave up the possession of them, to which Mr. Maclaren Sent a reply to the Attorney General, dated 13th June, 1835, enclosing an Order to his Overseer and Partner, Mr. Wright, for their Delivery to me or my Order, at the same time saving and reserving to himself his right of making any further *Claim for remuneration* on account of the Keep of such sheep from the expiration of the Agreement up to the then present time, when at the Same time he had received 2 extra years' thirds of the Produce, as well as the whole of 2 years' extra wool for his unlawfully Detaining the possession of them.

Upon the Receipt of Such Authority, I proceeded, by the Command of His Excellency the Governor, to Janevale and mustered and classed such Animals, which was fortunate I immediately did, as Mr. Maclaren had Sold his Farm to Mr. Macquoid, the present Sheriff, and Mr. Wright informed me that in a fortnight from that time they would have been removed to Monero Plains (beyond the limits of the Colony), where I think I should have had but a poor Prospect of recovering any of them; but, as it was, Mr. Wright gave up the possession of the Farm within ten days from my quitting to the Agent of Mr. Macquoid; but left them only in Charge of Government Men, without any Overseer to Superintend;

1836.
28 Feb.

Report by
H. Fisher *re*
sheep of church
and school
corporation
held by
J. Maclaren
on terms.

1836.
28 Feb.

Report by
H. Fisher *re*
sheep of church
and school
corporation
held by
J. Maclaren
on terms.

the result of which was, from the neglect of not shifting their Folds and general bad Management, they were at the time of Sale, which took place shortly afterwards, reported to be Scabby; therefore they not only Sold at a very low rate, but one Flock of Ewes, consisting of 346 Head which was Sold at 19s. per Head, was subsequently returned upon my hands, the Amount of the Purchase Money refunded by me, and afterwards Sold at 9s. per Head to Mr. Macquoid upon a Bill at Six Months, in consideration of his foregoing a Demand he made for the expense of the Keep of such Animals up to that time, Amounting to the Sum of One hundred and Sixty seven Pounds.

HY. FISHER, Agent for the Church and School Estates.
Sydney, New South Wales, 29th February, 1836.

LORD GLENELG TO SIR RICHARD BOURKE.

(Despatch No. 118, per ship Lord Goderich; acknowledged by Sir Richard Bourke, 22nd November, 1836.)

29 Feb.

Sir,

Downing Street, 29 February, 1836.

Report required
re complaint
by J. Reid.

I transmit to you herewith a Copy of a Letter, which I have received from an Individual named J. Reid, a resident at Newcastle in New South Wales, containing certain charges against Mr. John Wighton a Magistrate of the Colony; and I have to request that you will favor me with your report upon the circumstances which form the subject of Mr. Reid's representation.

I am, &c.,
GLENELG.

[Enclosure.]

MR. J. REID TO RIGHT HON. CHARLES GRANT.

Sir,

Newcastle, N. S. Wales, 4 Septr., 1835.

Charge made
by J. Reid
against
J. Wighton.

I have the honor to inform you that, on the 13th July last, I submitted a charge against Mr. John Wighton, a Magistrate, he being an *illicit Vender of Spirits*, calling upon H.E. the Governor to institute an enquiry into the facts of the case for the respectability of the Magistracy. On the 11th of last month I repeated my charge, and silence is my only answer. I therefore take the earliest opportunity of bringing the case under your consideration, transmitting part of the Sydney Gazette* of the 8 August, containing a letter reflecting on Mr. Wighton's conduct, also the Gazette of the 20th of the same month, in which the Editors of that Journal comment in strong language on the infamy of a Magistrate being an "*illicit Grog Seller*."

Mr. Wighton being a favorite with H.E. is, I presume, the only reason such conduct remains unnoticed; and, that he might not be taken by surprise, I informed H.E. on the 28th of last month (by letter) that, unless he instituted enquiry, I requested he would forward my charge and the Sydney Gazette alluded to for your information, it being my intention to transmit the same by the first opportunity.

* Note 90.

Did I belong to the Convict Class, my letter would have been answered by return of Post; at least such has been the Policy of Govr. Bourke's Govt., whilst Emigrants are treated with contempt.

1836.
29 Feb.

In conclusion, I shall merely ask one question, Is an illicit Grog-seller a proper person to be in the Commission of the Peace.

I am, &c.,
J. REID.

SIR GEORGE GREY TO SIR RICHARD BOURKE.

29th February, 1836.

[*This was a letter of introduction for Lewis Pedrana, jr.*]

Introduction for
L. Pedrana.

LORD GLENELG TO SIR RICHARD BOURKE.

(Despatch No. 119, per ship Lord Goderich; acknowledged by Sir Richard Bourke, 20th November, 1836.)

Sir, Downing Street, 1st March, 1836.

1 March.

The Secretary of State for Foreign Affairs having submitted to me an application, which has been made on the part of the Belgian Government, for permission to send Consuls or other Commercial Agents to reside in the Colonies of New South Wales and Van Dieman's Land, I have to desire that you will take the subject into your consideration, with as little delay as possible, and report to me your opinion whether there are any objections to allowing Consuls or other Commercial Agents of Foreign Powers to take up their residence in the Colony under your Government.

Proposal for
foreign consuls
and commercial
agents.

I am, &c.,
GLENELG.

SIR RICHARD BOURKE TO LORD GLENELG.

(Despatch No. 30, per ship City of Edinburgh; acknowledged by lord Glenelg, 22nd August, 1836.)

My Lord, Government House, 1 March, 1836.

The accompanying letter addressed to Your Lordship, signed by certain of the Civil Officers of this Government, and having the names of others intermixed in a manner upon which I shall hereafter have occasion to observe, has been laid before me by the Colonial Secretary for transmission to its address. Notwithstandg. the unprecedented nature of the Communication and the strange form of its subscription, I have made no avoidable delay in bringing it under Your Lordship's notice. It purports to be the complaint of the Civil Officers that their names were not included in the last Commission of the Peace for this Colony.

Complaint by
civil officers
re omission
from
commission
of peace.

1836.
1 March.
Omission of
of civil officers
from
commission
of peace.

Letter sent to
civil officers
explanatory of
their omission.

In my Despatch of the 24th Ult., No. 7, I had the honor to inform Your Lordship that I had deemed it expedient to issue a New Commission, and that I had omitted the names of nearly all the Civil Servants, giving briefly my reasons for that measure. The propriety of the act being questioned by the Letter now transmitted, I beg permission to add some further explanation.

When the new Commission was issued on the 6th ult., I directed a Circular Letter to be addressed simultaneously to each of the Civil Officers whose name was omitted (with the exception of Mr. Riddell, the cause* of whose omission recent circumstances had rendered apparent), deeming it right that the motives for a measure affecting a certain class of Persons to whom no blame was meant to be imputed should be made known to themselves and the Public.

The following is a Copy of that Letter:—

(Circular No. 36/1.)

Colonial Secretary's Office,

Sir,

Sydney, 6 Janry., 1836.

I am directed by His Excellency the Governor to inform you that, in a new Commission of the Peace which will appear in this day's Government Gazette, His Excellency has thought it expedient to omit your name, Believing that the appointment of Civil Officers to the Magistracy took its rise in the earlier days of the Colony from the necessity of the case, when there were but few Persons in New South Wales unconnected with the Government capable of discharging the duties of a Justice of the Peace. This being no longer the case, His Excellency thinks it right to relieve the Civil Officers from a responsibility, which their position might render embarrassing, and which at times interfered with their more appropriate occupation. To several, indeed, thanks are justly due for having added a close attention to the duties of the Hyde Park Bench to the laborious service of the Office.

I have, &c.,

ALEXR. McLEAY.

The foregoing Letter, though short, contains in fact the whole of the case. It can hardly be doubted that necessity induced the first appointment† of Civil Servants to the Magistracy. The local Government, if free to choose, would surely have avoided appointing an assistant Surveyor of Roads or Hospital Mate to be a Justice of the Peace. Such appointments are not made in England, where there exist sufficient materials for a stipendiary or unpaid Magistracy. Under the pressure of necessity, former Governors of the Colony permitted the Officers of a Regiment of Infantry to sell Rum and Piece Goods, but the practice was

Alteration in
conditions of
colony.

* Note 91.

† Note 92.

abolished when more appropriate Retailers were to be had. It had been a custom in this Colony to appoint the assistant Chaplains to be Justices, but by order of the Secretary of State their names were omitted. The Commission lately issued contains the names of 144 Magistrates, stipendiary or unpaid, placed or residing in the several Districts of the Colony. The necessity for the employment of Civil officers on the Bench has entirely ceased.

1836.
1 March.

Alteration in conditions of colony.

There being thus no longer any necessity for such appointments, the expediency of continuing them came to be considered. Your Lordship should be informed that the duty required of the Official Justice in Sydney in Criminal cases has been to hear and determine summarily in a Court held at Hyde Park Barracks all complaints against Convicts in Government Employment. They were at one time very numerous, but, since the reduction of the Lumber yards, have been much diminished. The duty in its reduced state was however very indifferently performed. I received frequent complaints from those Justices, who attended with some regularity, that the business was neglected by others under an equal obligation to serve. An attempt to introduce a certain routine of duty was unsuccessful. Prisoners were in consequence sometimes kept long in confinement before a hearing could be obtained, and cases were remanded from one sitting to another to the prejudice of a due administration of the law. Three of the eight subscribers to the letter now transmitted do not appear in a Return now before me for the last year to have sat a single day. Another attended four; another ten days only; while the remaining three, who gave their attendance about once a week, represented at different times the interruption it caused to the discharge of their official duties, and urged the necessity of calling on others to assist. There were thus two classes of these official Justices; one which did no duty at all, another which did too much. Upon neither had the Government any well founded claim for the performance of this service. The P. Supt. of Convicts is the only Government officer upon whom the duty rightly devolved, and it was incumbent on the Govt. to prevent any neglect of official business in others arising from an undue preference being given to the Bench. The Surveyor General (one of the present Subscribers who never attended himself) once complained to me that his Deputy was sitting on the Bench, whilst the Head of the Department was laboring at the Desk or on the Roads.

Duties of magistrates in Sydney.

Attendance of magistrates at bench.

Such being the unsatisfactory state of this anomalous Court for which the official Justices were appointed, I thought it

1836.
1 March.
Arrangement
for magisterial
duty in Sydney.

expedient to reform it by assigning the whole duty to the Princel. Supt. of Convicts and the Military Superintendent of Ironed Gangs in Sydney, who sit every morning and dispose at once of all cases brought before them.

Abolition of
necessity for
official
magistrates
in country
districts.

In the Country Districts, there lived some official Justices, being assistant Surveyors or assistant Surgeons. To the former, I had in the year 1832 rendered the appointment of Justice of the Peace unnecessary by introducing a clause into the summary Punishment act, which gave them Jurisdiction over the Gangs under their charge. The Services of the latter had become altogether unnecessary by the appointment of Stipendiary or unpaid Magistrates in sufficient numbers.

Duties of
official
magistrates
as assessors in
supreme court.

The official Justices of Sydney had moreover a Civil duty to perform in conjunction with the unofficial, namely to sit as assessors* in the Supreme Court under the provisions of the New South Wales Act. This Civil duty was not better performed than the Criminal. Some of them seldom, and others never attended Court by reason of the official demands on their time. It became therefore difficult to require the unofficial Members of the Magistracy to attend the laborious duty of Assessors, whilst the official Members were excused; and it was improper that an officer in the public Service should have a discretion to neglect his official duties under the plea of attending those of the Magistracy. There resulted from this dilemma a general neglect of attendance to such a degree that but for the aid of the Registrar of the Supreme Court, who was a Justice and always at hand, the trial of Civil Issues in that Court by Assessors would have been frequently impossible. A remedy no doubt might have been found in compelling the attendance of the Magistrates by penalties. But these penalties should have been equally enforced against official, as well as unofficial Justices, and the public officers would thus have become exposed to the penal consequence of not attending Court to the neglect of his paramount official duties. In one instance, indeed, the Court imposed a fine upon a Civil Officer for non attendance. I could not dispute the propriety of the Fine; but, knowing the extent of his duties, I directed he should be reimbursed the amount by warrant on the Military Chest. Under such circumstances, it appeared to me as expedient to relieve the Civil Officers from their attendance in the Supreme Court as from the Criminal duties at Hyde Park. In neither case did their appointment as Justices seem at this day to promote the due administration of the Law.

Neglect of
duty in
supreme court.

Penalties
proposed for
non-attendance.

Fine imposed
on official
magistrate.

A further reason for the discontinuance of these official Justices is given in the circular Letter, namely the embarrassment

* Note 93.

which their position with respect to the Government might at times occasion. Upon this point, I would observe that it had clearly appeared to me on a late occasion that the situation of Justices of the Peace in this Colony sometimes became political. The Memorialists have pointed at the fact, which was no doubt fresh in my mind, when I considered the expediency on this ground of ceasing to appoint Government Officers to be Justices. I have had occasion in a recent despatch* to bring under Your Lordship's notice the Election of a Chairman of Q. Sessions. I have stated in that Despatch that I used no influence whatever to bias a vote at the Election, however anxiously I might desire that the choice of the Justices should place an honest and efficient Magistrate in the Chair. It happened, however, chiefly from the extreme hostility of an Individual Mr. Jones, a Member of Council, towards the Candidate Mr. Therry, who is an acknowledged Friend of this Government, as Mr. Jones is an acknowledged opponent, and the steps the latter took to defeat Mr. Therry's election, that the whole proceeding assumed the appearance of a political struggle in which several of the Government officers were found in close connexion with gentlemen decidedly and openly opposed to the Government. At the same time, others of the official Justices took what was called the Government side. In either case, the matter was awkward and embarrassing. On an election of the kind, it was not desirable that a Return should be obtained on grounds merely political, whilst it afforded great matter for scandal to find certain Government Officers arrayed against a friend of the Government in support of its acknowledged opponent. The whole proceeding manifested in the strongest possible manner the necessity of withdrawing the Government officers from the position they then occupied, if the Government wished to maintain its respectability in the opinion of the Public. I have referred to the proceedings of the official Justices on the election of a Chairman of the Quarter Sessions, in illustration of the embarrassment alluded to in my circular, as it is particularly pointed out by the Justices themselves. On other occasions, I had reason to remark that their appointments as Justices led the Government officers into the discussion of local politics and caused an embarrassment both to the Government and themselves, which it was quite necessary to terminate. Your Lordship cannot fail to perceive that, in complaining of my own alleged interference in what they term "petty politics" as the cause of the act, which has given them offence they plainly arrogate to themselves a right, not only of taking their own share of every party squabble, but of doing so without any responsibility to the Head of the Government for the unbecoming

1836.
1 March.

Danger of official magistrates being involved in political disputes.

Election of chairman of quarter sessions.

Necessity for withdrawal of civil officers from bench of magistrates.

1836.

1 March.

Necessity for
withdrawal of
civil officers
from bench of
magistrates.

conduct of which they may be guilty in the course of it. Such an assumption must surely of itself be a convincing proof of the false position, which these Civil officers occupied, and of the absolute necessity of the measure of which they complain.

I trust I have thus shewn Your Lordship that, whether with regard to the due administration of the law or the support of the character and credit of the Government, it had become necessary no longer to continue the practice of appointing generally all the Government officers to be Justices of the Peace. In acting on this opinion, I need not I hope disclaim all intention of offending the Civil Officers. The measure was general, including the omission* of a valued member of my family and my private Secretary. The intimation of the fact was given in terms of courtesy and respect.

I might here perhaps with propriety conclude this explanation. I venture however to beg Your Lordship's indulgence, whilst I make a few brief observations upon some parts of the letter which I transmit.

The Memorialists admit the embarrassment of the position referred to in the Circular Letter, in which both they and the Government might be placed, if as Justices of the Peace they gave to the latter their support; but they take much pains to assure Your Lordship that any embarrassment of this sort has not been occasioned by them. If then I proceed to state what the voice of the Public, to which these Memorialists appeal, will readily testify, that from several of the Government officers my administration has received no support at all, I shall advance nothing more than what they seem desirous to take credit for. It is indeed my sincere belief that many of these gentlemen, including some whose names do not appear to the letter, are strongly opposed to my administration, and have not scrupled to thwart its measures and discredit its motives by every means upon which they could prudently venture. That many of them are closely connected with the avowed opponents of the principles, upon which I have endeavored to govern the Colony, is a notorious fact, and that this connexion would have shaken, perhaps overthrown any Government, not possessing the confidence of the great majority of the Community, is hardly to be doubted. Feeling, as I conscientiously do, that I have endeavored to govern this Colony upon principles best calculated to ensure its present peace and lasting prosperity, that these principles have been openly avowed by me and approved by H.M.'s Government, I think I might have expected the support of the public officers, at least upon mere points of Government. But so far are these

Embarrassment
caused by civil
officers as
magistrates.

Opposition of
civil officers to
Sir R. Bourke.

* Note 95.

Memorialists from considering that support to be their duty that they assert in a tone of triumph, which cannot be mistaken, that they are not even suspected of being the supporters of this Government. It is easy to imagine that I do not desire to leave any power of annoyance in the hands of Persons, who could make such a declaration of hostility when addressing a Minister of the Crown.

1836.
1 March.

Opposition of
civil officers to
Sir R. Bourke.

These Memorialists go on to say that, as Magistrates, their integrity is unquestioned, and they appeal to the Governor whether their official duties have not been faithfully and laboriously performed. With respect to their Magisterial integrity, five out of the eight Memorialists appear to have given but little opportunity of forming any opinion on the subject. In regard to the appeal which they make to the Governor in behalf of their claim to be considered as having faithfully and laboriously performed their official duties, I regret I cannot decide in favor of all these appellants. It would however take up more of your Lordship's time than I would willingly engross, were I to enter in this place into the detail of the many official improprieties with which some of these appellants are chargeable. The Records of the Secretary of State's Office already contain some matters of heavy complaint, and I could wish those were all. To none, however, would I have adverted in this letter, but that, the Memorialists having appealed to me, I might seem to confirm the laudatory sentence they have passed on themselves, had I omitted to state frankly that many have not discharged their duties to my satisfaction.

Integrity of
civil officers as
magistrates.

Neglect of
duties by civil
officers as
magistrates.

Having however been thus led to pass an opinion upon the conduct of certain of the Civil officers in reply to their appeal, it may be proper to state, for Your Lordship's information with respect to nearly the whole body, that circumstances having conspired to render their assistance out of doors as needful to former Governments as their official duties within, they had assumed a part and bearing not acceptable to the Community in general. They seemed to consider themselves as part of the State as entitled to the privileges of a higher class and claim the Magistracy, as Your Lordship may observe, in right of office. Having most of them received large grants of Land in former administrations and become rich beyond any expectations they could reasonably have entertained, they are disposed to take an active part in what the Memorialists are pleased to term petty politics, and to exercise a freedom of speech and action not usually deemed compatible by an honest servant of Government, with the obligation under which the acceptance of office and continuance

Position
assumed by
civil officers
in colony.

1836.
1 March.

Position
assumed by
civil officers
in colony.

Opposition of
civil officers to
progress and
reform.

Value of
powers of
patronage to
former
governors.

Liability of
civil officers
to serve as
jurors.

Indiscriminate
omission of
civil officers.

in it has placed him. They are inclined to lead and not to follow, and would dictate measures to Government rather than forward those which happen to be opposed to their opinions. The opinions of the greater number in matters of local concern are generally opposed to mine. Their's are of an exclusive tendency, whilst my object has been to introduce a strict impartiality of administration. Your Lordship is well aware that in this Colony party feelings are high, and that the Government with every endeavour to steer a middle course has not been able to escape a good deal of hostility. This hostility has, beyond all doubt been fostered and increased by the adverse spirit of many of the Civil Officers. Closely allied in feeling and interest with the Party, which for some years was dominant in the Colony, they openly declare themselves averse to those measures which are based on the principle of equal justice and a due regard to the rights of all classes. They look with jealousy and distrust upon the Head of the Government, who takes counsel of any but themselves or their political associates, and who seeks for support in the general confidence and good will of the whole Community. Without meaning any offence to Individuals, but looking at the world as it is, it is not too much to assert that the power of granting Lands and Convict Labor, possessed and used by former Governors at their discretion, were very potent means of securing support to the measures proposed by them. I admit the justice and propriety of taking this power away; but, being removed, an additional reason has been created for requiring from the loyalty of the Public Officers a firm and zealous support of the Government, from which they continue to receive the stipulated emoluments of office, though the hand, which dealt out bounties in profusion, has been closed.

These Gentlemen further complain that, in ceasing to be Magistrates, they become liable to serve as Jurors at Quarter Sessions. This assertion, I am informed by the Solicitor General, does not rest in fact. They are returned on the panel as Esquires,* which places them on the special Jury List, from which it is the practice not to strike Jurors for Quarter Sessions.

The Insinuation, that the names of any Civil Officers have been omitted and others returned in the new Commission on account of the opinion, they respectively entertain on the part they took at the late election, is totally groundless. The names of those, who were found on opposite sides, have been indiscriminately omitted. If these gentlemen had said that many of the Civil Officers having used the Commission of the Peace in the furtherance of party-politics, it had seemed advisable to the Governor to

* Note 96.

avoid the occasion of scandal by not renewing to any (where it could with reference to the public service be avoided) the power which that appointment gave them, they would have spoken the truth. These Memorialists are no doubt extremely anxious that the Governor of New South Wales should not commit any act to impair the respect, with which they desire he should be regarded. It is very satisfactory, therefore, to know that, notwithstanding what they have advanced to the contrary, the late revision of the Magistracy is considered by the Colonists in general as a prudent, just and necessary measure, tending to give a more independent character to the office by separating it from the Executive Government, and by omitting all useless and improper Persons, as well as by the introduction of Men of acknowledged talent and large possessions without reference to any unjust principle of exclusion.

1836.
1 March.

Public opinion
re revision of
magistracy.

I have in conclusion to request your Lordship's attention to the extraordinary manner in which the Letter is signed. It contains but eight autograph signatures, eight other names being written by a Clerk, as I believe, in the office of the Collector of Internal Revenue, whilst I have reason to suppose the document has emanated from the office of the Colonial Secretary. Proceeding from official characters, it is strange they should have been betrayed into so informal a course; it is stranger still that there should be appended the name of one person at least, who refused to sign the Paper when pressed upon him. Others may have been similarly treated of whom I have not heard, and I have not thought it worth while to enquire. This circumstance, however, induces me to notice a misrepresentation with which that document commences. It is stated that the names of the Memorialists have stood in the Commission of the Peace here and in Great Britain for various periods, from 4 to 30 years. Whereas the fact, if I am not grossly deceived, is simply that one of the subscribing witnesses is a Justice in a Scottish County! This want of accuracy might not perhaps have been worth the trouble of an observation; but, when names are appended in the Extraordinary manner which the letter Exhibits, and with the infidelity I have described, for the obvious purpose of inducing a false impression of the extent and unanimity of feeling upon the subject in question, an act is perpetrated of a graver character, not less questionable on the score of its integrity than its motive.

Criticism of
signatures to
letters.

Misrepresenta-
tion re service
as magistrates.

I have, &c.,

RICHD. BOURKE.

[Enclosure.]

[A copy of this memorial is not available.]

SIR RICHARD BOURKE TO LORD GLENELG.

1836.
3 March.(Despatch No. 32, per ship *City of Edinburgh*; acknowledged by
lord Glenelg, 18th September, 1836.)

My Lord, Government House, 3 March, 1836.

In continuation of the Despatches in which I have reported the arrival of the Female Emigrants by the *Canton*, and the means resorted to for their accommodation and employment. I have now the honor to transmit a detailed statement of the manner in which they have been finally disposed of, as furnished to me by the Colonial Secretary. Your Lordship will not be more concerned than I was at perceiving the unfavorable terms in which that officer has reported the conduct of many of the women who arrived by this ship. He assures me, however, that he has no doubt whatever of the Report being perfectly correct. The List B he also tells me was furnished by the person, who has had the superintendence of the women since their arrival, and that there is no doubt of its correctness. I have therefore no alternative but to forward it. I will beg however that the paper last referred to, which the Colonial Secretary terms the Black List, may not be published, as I observe was the case with one of a similar nature sent from Van Diemen's Land. I submit that any good arising from such publication is far outweighed by the pain it may inflict on the relations of the parties, and the obstacle it presents to their own reformation. I have so fully expressed my opinion in former correspondence both as to the imperfections of the present plan of female Emigration, and as to the injustice of reproaching the London Committee with faults inherent in the system, that I need not add anything here on these points.

Statement
re female
immigrants per
ship *Canton*.Misconduct
of immigrants.Immigrants per
ship *James
Pattison*.

I have much pleasure however in stating that the Emigrants by the *James Pattison*, which ship arrived on the 6th Ultimo, are more likely to give satisfaction. This will appear from the enclosed Brief Report of the Committee now superintending their disposal; and I trust the more detailed account, which will be forwarded as soon as the women are all disposed of, will confirm the favorable impression at present entertained regarding them. I have before had occasion to remark the superior character of the women selected in Ireland, which I am disposed to attribute to the circumstance of a larger proportion of them being drawn from Places remote from Towns.

I have, &c.,
RICHD. BOURKE.

[Enclosure No. 1.]

COLONIAL Secretary's Report of the manner in which the Female Emigrants, arrived per Ship "Canton," 3 September, 1835, have been disposed of.

1836.
3 March.

Report re
female
immigrants per
ship *Canton*.

THIS Ship arrived in Port Jackson on the 3rd September last, but, in consequence of there having been several Cases of Small Pox on board during the Passage, and one Case of a recent date, the Ship and Passengers were placed in Quarantine.

The Passengers, however, were landed on the usual Quarantine Ground, and were provided with fresh Provisions and every Article required for their use, so as to make them as comfortable as the circumstances of the Case would admit. On the 6th October, the Passengers were released from Quarantine, and were brought up to Sydney where they were very comfortably lodged in out Buildings belonging to the Government House, and in a large temporary Building immediately adjoining, provided with Tables, Cooking Utensils, and Provisions, according to the daily Ration usually supplied to Emigrants.

A respectable Person was appointed to superintend and to carry into effect all the arrangements of the Committee of Ladies and Gentlemen, who attended for the purpose of procuring suitable situations for the Young Women, and every possible precaution was used to prevent any of them from going into the Service of improper Persons.

The whole Number of Emigrants landed and lodged, as above stated, was 234; but only 167 Young Females came at the expence of Government, and nearly the whole of them were in a few days provided with Situations, as stated in the annexed Return (A), but some few remained and others returned from the Service originally provided for them, so that it was found necessary to keep the apartments behind Government House open for them until the of . On that day, all were in some way provided for, excepting a Woman named Caroline King from Yorkshire, who was so imbecile as to be found totally unfit for Service, and Jemima Rossiter* from Kent, who is said to have shown Symptoms of Insanity from the time she embarked. These two Women were removed to the Benevolent Asylum or Poor House, where they still remain.

Besides these two Women, who are likely to remain a burden on the Colonial Government unless they are sent back to England, there were several other Women arrived by the *Canton*, who ought not to have been sent out at the expence of the Colony.

Among these may be particularly mentioned Mary Ann Kelly from Ireland, who with 2 Children came out to join her Husband a Convict in the Colony; Eliza Berkins from Middlesex who with a child came to join her Husband in Van Diemen's Land; Catherine Neilson from Scotland to join her Brother in Van Diemen's Land; Mary Anne Barnes from Lambeth, an incorrigible Drunkard and Prostitute; Elizabeth Matthews, and one or two other Girls whose names have not been ascertained, were immediately recognized by Soldiers of the 17th Regiment, who were placed as Sentries over

* Jemima Rossiter has left the Asylum and gone to live with some of the other Women who came in the *Canton*.

1836.
3 March.

Report re
female
immigrants per
ship *Canton*.

them while in quarantine, as old acquaintances on the Town in Chatham; Mary Ann Finlay from Ireland and Janet Cuba from Scotland were not fit for Service in consequence of Pregnancy, but were soon after their arrival obliged to quit their Places and go to the Hospital to lye in.

The character of a great proportion of the Females by this Ship became notorious very soon after their arrival, and the annexed List B shews how 28 of them have already turned out. To this black List there is reason to believe that many may be added, but their names are not yet ascertained.

ALEXR. MCLEAY.

Colonial Secretary's Office, Sydney, 29th February, 1836.

[Return marked A.]

[*This was a statement of the employment, wages and employers of two hundred and thirty-four female immigrants.*]

[Return marked B.]

[*This was "A List of Females of improper character, who arrived by the Canton."*]

[Enclosure No. 2.]

BRIEF Report upon the female Emigrants by the "James Pattison," arrived at Port Jackson on Saturday, the 6th February, 1836, under the Superintendence of John Osborne, Esquire, Surgeon of the Royal Navy.

THE Committee, appointed for the distribution of the female Emigrants by the "James Pattison," have the honor briefly to report, for the information of His Excellency the Governor, that the several females amounting to 296, exclusive of 17 Children, being the whole number embarked, were safely landed on Thursday, the 11th February instant, and lodged in the temporary buildings prepared for their reception in the rear of Government House. The whole, with the exception of two who are of unsound mind, appeared to be in excellent health, and very cleanly and orderly in their dress and appearance, and bore strong testimony both in their demeanor and expressions to the kindness of the Superintendent, and to the order, regularity and harmony which he had maintained during the whole of the voyage.

The Committee have much pleasure in stating that they consider this to be the best importation of females, which has yet been received since the commencement of the present System, both as regards their usefulness and general moral conduct, so far as they have yet had an opportunity of judging. They deem it, however, proper to observe that there appear to be four, who ought never to have been admitted as Emigrants, two of whom are of unsound mind as above stated, and had been previously confined, and two are wives of Convicts.

There have already been engaged, 250; Leaving still unengaged at this date, 46; Total, 296.

Of the 250 engaged, 136 have obtained places in and near the town of Sydney, and 119 in the country districts.

Report re
female
immigrants per
ship *James
Pattison*.

The following statement shows the several capacities in which the females have been engaged, the number of each capacity and the average rate of wages per Annum they have obtained, vizt. :—

1836.
3 March.

Capacity.	No.	Average Wages.
Governesses	2	30 0 0
Nursery Governesses	9	15 0 0
Housekeepers	4	14 5 0
Dress and bonnet makers	4	15 15 0
Glovesmaker	1	8 0 0
Ladies' maids	2	14 0 0
Nurse	1	15 0 0
Cooks	8	12 5 0
Laundresses	20	11 13 0
Needlewomen	16	11 2 0
Housemaids	41	10 13 0
Nursery maids	32	9 16 0
General Servants of all work	100	9 18 6
Kitchen maids	3	9 6 0
Dairy women	3	9 0 0
Gone to their relations	4	— — —
Total engaged	250	10 14 6

Report re female immigrants per ship *James Pattison*.

The Committee think it right to state that they consider these wages to be higher than could have been generally anticipated, and than can safely be calculated upon in future. They are also of opinion that there was a larger number of females in this importation than should be sent out in any one Ship, though they cannot but deem it fortunate that so many have obtained places on such favorable terms so soon after their arrival; more especially when it is considered that a Ship with 120 female Convicts arrived the same day, all of whom have been Assigned to private service.

The Committee have been very particular in allowing these females to engage only with families of respectability either known to themselves individually, or who produced satisfactory testimonials of character. It would be premature now to advance any opinion of the manner in which they may conduct themselves in this Colony; but the Committee are not aware that any have yet left their places for impropriety of conduct.

The Committee will have the honor of reporting more in detail for the information of His Excellency the Governor, when the whole of the females have been satisfactorily disposed of.

ALEX. McLEAY. E. DEAS THOMSON.
WM. MACPHERSON.

Committee Room, Sydney, 29th February, 1836.

SIR RICHARD BOURKE TO LORD GLENELG.

(Despatch No. 33, per ship *City of Edinburgh*.)

My Lord, Government House, 4 March, 1836.

4 March.

Referring to previous correspondence* with the Secretary of State for the Colonies respecting a claim of Messrs. Ferguson and Co. to compensation for the value of Land and Buildings resumed by this Government, I have the honor to transmit a Memorial from Mr. Thomas Steele, the agent of the claimants, complaining of the manner in which the case has been disposed of by the verdict† of a Jury, and reiterating a claim of £3,789 12s. 6d. with interest from the year 1814.

Transmission of memorial re compensation for resumption of land leased to J. Palmer.

* Note 97.

† Note 98.

1836.
4 March.

The proceedings, of which Mr. Steele complains, are those which have been taken in obedience to the instructions of Lord Goderich. That Minister by his Despatch above referred to gave me authority to effect the best settlement in my power of the question, provided nothing more be paid than the sum of £513 1s. with interest. This sum was accordingly offered to Mr. Steele in full of all the claims of Messrs. Ferguson and Co. on this Govt. I even forebore to deduct from it certain charges suggested by Lord Goderich's Despatch. The course the matter has since taken renders it unnecessary to explain my reasons for a liberality barely warranted by my Instructions. It is sufficient to state that Mr. Steele refused to assent to the condition attached to the offered payment, but even took measures for retaining by force the possession of the Land in dispute. I, therefore, placed the case in the hands of the Law officers, who have obtained a verdict in the Supreme court restoring the property unconditionally to the Crown.

Sum offered
for settlement
of claims.

Lawsuit in
supreme court.

Having thus acted under instructions received from His Majesty's Government, I might perhaps abstain from all further remark, considering the case as already disposed of. If, however, the complaint now forwarded be thought to contain any matter worthy of consideration not regarded by Lord Goderich, it will, I apprehend, be fully met by the accompanying statement of the Solicitor General to which I beg leave to refer Your Lordship for a full, accurate and impartial view of the whole case.

Statement by
J. H. Plunkett.

To that statement, it would be unnecessary for me to make any addition, were I not called to observe upon a very extraordinary document, which Mr. Steele has forwarded with his Memorial for the purpose of giving it additional weight. This document is signed by a great number of respectable Persons, whose attestation of the many erroneous statements it contains would be really surprizing, if the subject of the document did not require an accurate knowledge and careful study of facts, for which they probably have had neither opportunity nor inclination. They have evidently been induced to make common cause with the Memorialist under an impression of his case being similar to that of many others, who have a clear, equitable but no legal Title against the Crown, and absurdly regard the proceedings of the Government as the first step in a system by which such equitable Titles will be overthrown by a resort to the letter of the Law. So far is this from being the fact, that the offer made under the authority of Lord Goderich was sanctioned on the mere score of equity and on the clear understanding that in point of law the claim was wholly without foundation. In rejecting that

Statement in
support of
claims from
residents.

offer, Mr. Steele has therefore himself appealed to law, though unwilling now to abide by its decision.

1836.
4 March.

By the memorandum of the Colonial Secretary transmitted herewith, Your Lordship will perceive how inconsiderately the Subscribers to the Declaration have appealed to the supposed convertibility of Town Leases* into Grants as an argument in favor of the Memorialist. In the great majority of cases, this convertibility arose from a positive clause in the Lease itself, which stipulated for such a grant on certain conditions. Where this clause has not been inserted (as it was not in the case now under consideration) the Government often made a grant at its own discretion. In a Proclamation† issued by Genl. Darling in 1829 with the avowed object of quieting Titles to Town allotments, it was conceded that occupancy prior to 1823 should in general entitle the then holder or his representative to a grant. But this was not only received as an act of gratuitous bounty, great satisfaction being expressed by the public at the time, but it contained an exception which manifested in the clearest language the sense the Government entertained of its own undoubted right to withhold this boon at pleasure. That exception comprised all Land, which it was thought convenient to leave for public purposes, among which was specifically described the land now in question, and also that of which the Lease was given up by Mr. Palmer in exchange for it in the year 1802. The present case is further distinguished from all others by the early manifestation on the part of Government of a determination to resume the Land. When Governor Macquarie complained of even a Lease having been issued by his Predecessor, no general impression could have subsisted of the convertibility of Leases into Grants, the Royal Instructions being then opposed to any such measure. Since that period, no general impression of the kind alluded to could have misled the Parties claiming a Property from which the Government has been during the whole time seeking their removal.

Convertibility
of town leases
into grants.

I have, &c.,

RICHD. BOURKE.

[Enclosures.]

[Copies of these papers are not available.]

LORD GLENELG TO SIR RICHARD BOURKE.

(Despatch No. 122, per ship Moffatt.)

Sir,

Downing Street, 5th March, 1836.

5 March.

I have received your despatch dated the 5th of August last, No. 72, enclosing a Representation from Mr. Charles Wilson, formerly Director of Works in New South Wales, on the subject of his reinstatement in the public service.

Despatch
acknowledged.

* Note 49.

† Note 50.

1836.
5 March.

Dismissal of
C. Wilson for
insolvency.

Inquiry refused
by C. Wilson.

The only facts in this case, to which it is necessary for me to advert, are few and undisputed. Mr. Wilson was accused by the Local Government of practising and conniving at a fraudulent use of the public property. Before this accusation could be investigated, he was removed from office under the Earl of Ripon's instructions, as being one of those public officers, who by their open and avowed Insolvency had brought a general discredit upon the Civil Service of the Crown in New South Wales. Repeated offers of an enquiry into his official conduct were made by you to Mr. Wilson and especially in the month of February, 1832. But he states that "his private affairs did not admit of his availing himself of these offers, conceiving that it was requisite that he should lose no time in proceeding to England in consequence of his removal from the service, and understanding that this circumstance had wholly superseded the necessity of going further into the matter."

Application by
C. Wilson for
re-employment.

After the lapse of three years and upwards, Mr. Wilson has challenged the investigation which was originally tendered to him in vain, connecting that demand with an application for further employment, if, as he anticipates, the result shall be to absolve him from the imputation of misconduct in dealing with the Government Stores.

Although in Mr. Wilson's communication, his reinstatement in the public Service is referred to as the inevitable result of his anticipated acquittal, yet I think it most important that he should clearly understand that the two events have no necessary or proper connection with each other. If exculpated to the fullest extent and in the most unequivocal manner from the charge of peculation in his office, it would not follow that Mr. Wilson had any claim to further employment. He was removed from the public service on a different ground, and by obtaining his discharge as an Insolvent Debtor not only dissolved his connection with the Government but cancelled every claim which he might otherwise have had to be engaged in their Service. I agree with you that there is no reason why he should be preferred to other Candidates. The claims, which he founds on former services, are at least neutralised by the objections founded on his admitted Insolvency.

Objections
to holding
inquiry.

I further concur in your opinion that no enquiry, which could now be instituted, could lead to a satisfactory result. After such a lapse of time, much of the evidence would probably be either impaired in value or entirely lost. As this is an inconvenience for which, by declining the proposal made to him in February, 1832, Mr. Wilson has rendered himself exclusively responsible,

I fear that no result of an investigation, to take place at this late period, could be received as entirely exonerating him from the censure incurred when this question was originally agitated.

1836.
5 March.

If, however, with the distinct and full understanding that His Majesty's Government can enter into no pledge and cannot hold out any prospect of restitution to the public service, and, if after having been apprised of the view which I have taken of the unsatisfactory nature of such an investigation at the present time, Mr. Wilson should persist in his demand for an enquiry, I do not think it could properly be refused. His personal character is deeply involved in the charge which has been made, and his solicitude to be relieved from any such stigma is but the more just and natural in proportion as the prospect of public employment is closed upon him.

Inquiry
authorised if
demanded by
C. Wilson.

You will communicate to Mr. Wilson a copy of this despatch as containing my answer to his letter. If, after perusing it, he shall call upon you for an inquiry into his imputed misconduct, you will accede to the demand. I must refer to Your judgment the questions by whom and in what manner such investigation would be most properly conducted. As however it would be instituted chiefly, if not exclusively, for the satisfaction of Mr. Wilson himself and for the defence of his personal reputation, and as no public interest would be involved in the result, I should be disposed to defer very much to his judgment and wishes as to the nature of the tribunal, as Mr. Wilson cannot fail to perceive that the value of a favorable sentence must mainly depend upon the closeness and impartiality of the enquiry by which it might be preceded.

I have, &c.,

GLENELG.

LORD GLENELG TO SIR RICHARD BOURKE.

(Despatch No. 123. per ship Moffatt.)

Sir,

Downing Street, 6th March, 1836.

6 March.

I have received your Despatch, dated the 17th August last, No. 83, enclosing a Memorial from Mr. William Carter, praying to be reinstated in the Magistracy of New South Wales, in order to qualify himself to become a Candidate for the office of Chairman of the Quarter Sessions.

Despatch
acknowledged.

This case is so far connected with that of Mr. Wilson, that they both belong to the Class of Officers, who, by the directions of the Earl of Ripon, were removed from the Public Service in consequence of their having taken the benefit of the Insolvent Debtors Act. The cases differ, because Mr. Carter is entirely

Cause of
dismissal of
W. Carter.

1836.
6 March.

exempt from every imputation of his conduct, except in so far as Insolvency may be regarded as a presumptive proof of imprudence. The question then presents itself in the most general form, whether the simple fact, that a Man was once declared an Insolvent Debtor, should operate as a permanent and insuperable bar to his employment in the Public Service.

I am persuaded that Lord Ripon did not intend that the general rule, which he laid down, should be urged to such a consequence, because I think that it would not be consistent with Justice or with sound policy. Such a principle of exclusion would confound the distinction between misfortune and crime, and would visit indiscretion with the penalties of Guilt. Mr. Carter should be regarded exactly in the same light as any new Candidate for Office. On the one hand, the claims, he might otherwise have derived from his past services, must be considered as cancelled by his Insolvency. On the other hand, his pretensions to be again employed should be estimated exactly in the same manner as if the insolvency had not occurred.

If, therefore, you should be of opinion that Mr. Carter is a proper person to be a Magistrate and that the enlargement of the present List, by the addition of his name, would be conducive to or not incompatible with the Public interest, you will make that addition.

I am, &c.,

GLENELG.

Reappointment
of W. Carter
at discretion of
Sir R. Bourke.

LORD GLENELG TO SIR RICHARD BOURKE.

(Despatch No. 124, per ship Moffatt; acknowledged by
Sir Richard Bourke, 1st September, 1836.)

7 March.

Sir,

Downing Street, 7th March, 1836.

I transmit to you a Copy of a Letter, which I have received from Mr. W. McCrea, containing an application for the confirmation of an Order to occupy a portion of land in New South Wales which was made, but subsequently revoked, in consequence of Mr. McCrea having almost immediately quitted the Colony in contravention of the terms of the order.

I cannot perceive, in the circumstances stated in Mr. McCrea's Letter, any thing which would justify an exception in his case from the operation of the general rule; but as I perceive that the Colonial Secretary, in his letter to that Gentleman's Agent of 31st July last, holds out a prospect that the Secretary of State might direct a confirmation of the Grant, I should be glad to know the grounds on which the Colonial Secretary was led to form such an opinion.

I have, &c.,

GLENELG.

Application by
W. McCrea for
confirmation
of land grant.

Report required.

[Enclosure.]

1836.
7 March.

MR. W. MCCREA TO LORD GLENELG.

37 George Street,
Hampstead Road, 4 March, 1836.

My Lord,

I beg leave to submit the following statement for your Lordship's consideration.

Application by
W. McCrea for
confirmation
of land grant.

In the beginning of the year 1831, I arrived at Sydney, N. S. Wales, as an Agricultural Settler, and obtained from the Govt., after the usual Enquiries, an order to select 1,280 acres of Land.

In August, 1831, I was obliged to return to Europe for the purpose of arranging certain Testamentary Affairs, and which have been up to a short time since in a state to require my personal attention.

My affairs being now arranged, I am anxious to return to the Colony for the purpose of remaining as an Agricultural Settler.

I find, by a letter from the Colonial Secretary at Sydney addressed to my Agent, which I beg to enclose to your Lordship, that the Colonial Govt. has cancelled my Grant in consequence of my not remaining in the Colony, but suggesting my applying to your Lordship. As I have been prevented from fulfilling my engagements by circumstances over which I had no control, and as it was always my intention to comply with the spirit of the engagement, never having withdrawn my Capital from the Colony, I trust your Lordship will allow the justice of my claim, and be pleased to direct that I may on my arrival in the Colony be reinstated in the Grant which has since my leaving the Colony been in possession of my Agent, or that I may be allowed to select an equal number of Acres in some other part of the Colony.

Trusting that your Lordship will take into consideration the great expense I have already been at, in relation to the Grant, that Your Lordship will be pleased to afford me such relief as your Lordship may deem proper.

I have, &c.,
WM. MCCREA.

LORD GLENELG TO SIR RICHARD BOURKE.

(Despatch No. 126, per ship Moffatt.)

Sir, Downing Street, 10th March, 1836. 10 March.

I have received your Dispatch No. 81 of the 14th of August last, enclosing an extract of the Proceedings of the Executive Council of your Government, with regard to the construction to be placed on the 8th Section* of the Regulations, dated the 15th August, 1834, under which retired Naval and Military Officers are permitted to obtain Land in the Australian Colonies.

Despatch
acknowledged
re land for naval
and military
officers.

Under the Section referred to, it was provided that, in order to prevent the inconvenience which might be suffered by officers arriving in the intervals between the General Land Sales, they should be allowed to acquire, at any time on payment of the

* Note 99.

1836.
10 March.

Interpretation
of conditions
for naval and
military
settlers.

upset price of 5s. an acre, Lands which had previously been put up to auction at some general Sale and not bought.

The object of that Provision is distinctly stated to be to enable officers to establish themselves without delay, and to obtain such portions of Land as would correspond in value with the amount of the remission of the Purchase Money, to which The Officer might be entitled on account of his services.

A claim has, I perceive, been set up by Mr. McArthur, a retired Surgeon of the Army, to receive, under the above mentioned Regulation, a portion of Land which had been put up to auction at a Government Sale, and knocked down at the price of twenty one shillings, but had not passed into the hands of the nominal Purchaser. The real intention of His M.'s Government is so clearly stated in the Regulation itself, that I am surprised that any doubt should have been entertained on the subject. The object in view was merely to save Military Settlers the expense and hindrance arising from a delay in waiting for a general sale of Land; and it certainly was not contemplated that they should be afforded the means of acquiring Land at a rate much below its value.

Refusal to
extend
concessions
to ordinary
settlers.

With reference to the proposal of the Council that newly arrived Settlers generally should be permitted to benefit by the indulgence thus granted to Military Settlers, I regret that I do not feel myself justified in acceding to such an arrangement. The principle of Competition would, as you justly observe, be thereby sacrificed; and I cannot but think that such a departure from the general plan, on which Land Sales are conducted, would be in many respects highly inconvenient.

I am, &c.,

GLENELG.

SIR RICHARD BOURKE TO LORD GLENELG.

(Despatch No. 35. per ship *Auriga*; acknowledged by lord Glenelg. 26th August, 1836.)

My Lord,

Government House, 10 March, 1836.

Report re
affairs in
New Zealand.

Although in immediate expectation of receiving a communication from H.M.'s Government upon the affairs of New Zealand, to which I have more than once had the honor to call the attention of the Secretary of State for the Colonies, I consider it necessary without any further delay to bring under Your Lordship's Notice certain proceedings, which took place in one of those Islands towards the end of last year.

The British Resident at the Bay of Islands, Mr. James Busby, informed me, by his letter of the 10th October, 1835, No. 68, that he had received a communication, dated Otaheite, 14 Sept.

1835, from a Person calling himself the Baron de Thierry,* Sovereign Prince of New Zealand and King of Nukuheva, Marquesas, announcing his intention of proceeding to New Zealand to establish himself there as an independent Sovereign. A similar communication was made by him to the Missionaries. Mr. Busby lost no time in addressing the British subjects residing in New Zealand, recommending them to use their influence in counteracting the designs of the Baron de Thierry, and he procured a meeting of the New Zealand Chiefs in order to their declaring the Independence of their country, and asserting as a collective Body their entire and exclusive right to its Sovereignty and their determination to maintain it. The Meeting took place at the Bay of Islands on the 29th October last, consisting of 35 chiefs mostly Residents of the adjacent districts, which form but a small part of the Northern Island of the New Zealand Groupe. A declaration of Independence was then published by those Chiefs, a copy of which I have the honor to transmit. Mr. Busby by the earliest opportunity wrote to inform Mr. de Thierry of the circumstance, and recommended him not to think of persevering in his proposed enterprize.

1836.
10 March.
Claim by C. de Thierry to sovereignty in New Zealand.

Meeting of Maori chiefs.

Declaration of independence by Maori chiefs.

I have received no later intelligence from Mr. Busby on the foregoing subjects. What I have now related may probably have been made known to Your Lordship by Mr. Busby, who informed me that he had forwarded copies of his correspondence with the Government upon the Baron de Thierry affair and of the Declaration of Independence by a Ship that sailed from New Zealand on the 6th November last.

Transmission of papers to England.

I should have had no occasion to speak in other terms than those of commendation of the part Mr. Busby took in these transactions, had he not unhappily mixed up with the Declaration of Independence a matter totally unconnected with the protection of the Islands from foreign usurpation, and framed an article to suit the view he took of a particular subject upon which he differed from the Missionaries, the New Zealand Chiefs and the British subjects residing in the country, as well as from the opinions of this Government as he has since been informed. This subject is alluded to in that part of the 2nd article of the Declaration of Independence, which expresses the determination of the 35 Chiefs then assembled "not to permit any legislative authority, separate from themselves in their collective capacity, to exist, nor any function of Government to be exercised within the said Territories, unless by Persons appointed by them and acting under the authority of Laws regularly enacted by them in Congress assembled."

Criticism of clause inserted by J. Busby in declaration of independence.

1836.
10 March.

The matter, pointed at in the Paragraph I have quoted, is briefly this.

Prohibition by
Maori chiefs of
importation
of spirits at
Hokianga.

On the 26 Sept. last, the additional British Resident* Lt. McDonnell, R.N., appointed by Mr. Secretary Spring Rice at Hokianga, informed me that, in conjunction with the Revd. Wm. White, a Missionary at that place, and with the concurrence of the British residing there, he had prevailed on the native chiefs to pass a law against the importation of ardent Spirits within their district. Being fully convinced of the great benefit which such a law if duly enforced would confer on the Country, I approved of Mr. Macdonnell's proceeding, gave notice† of the Law in the Government Gazette of this Colony, and instructed Mr. McDonnell how to proceed with regard it to.

Prohibition
proposed
at Bay of
Islands.

At the same time that I received this communication from Mr. McDonnell, a letter from Mr. Busby of the 10th September informed me of the general wish entertained at the Bay of Islands by all classes of People, native Chiefs, British Subjects and Missionaries, to put a speedy end to the importation of spirits; that He was requested to call a meeting of the Europeans to consider the subject, and was expected to use his influence with the Chiefs to carry a prohibitory Law into full effect. Mr. Busby having represented in very forcible language the great injury to morals, security and property caused by the importation, I was surprised to find that he opposed the introduction of the Law. He grounded his opposition upon some apprehension of the imperfect or improper execution of the Law, and of its interference with British subjects and their concerns. These reasons appearing to me altogether unsatisfactory, I directed him on the 20 October not to discourage the introduction of such a law, but on the contrary to use his best endeavors towards its successful operation, referring him to what had occurred at Hokianga, and sending him a copy of my Instruction to Mr. Macdonnell. These directions were repeated on the 6 Novr. following in reply to a second communication from Mr. Busby, dated the 10 October, who, having been then informed of what took place at Hokianga by Mr. McDonnell, had expressed his disapproval of the measures pursued by that officer and his intention to render them abortive.

Instructions
for J. Busby
to support
prohibition.

Clause
introduced in
declaration of
independence.

In pursuance of this intimation, Mr. Busby appears to have introduced into the 2nd Article of the Declaration of Independence the Paragraph I have quoted, and he suspended my Instructions to Mr. McDonnell which enjoined that officer to use his influence towards effecting the very desirable objects of the

* Note 101.

† Note 102.

Hokianga prohibitory Law upon the plea that it was contrary to the fundamental Laws of the Islands, alluding to the Article, which he had prepared and caused to be adopted in the declaration subscribed by the small body of Chiefs assembled at the Bay of Islands.

1836.
10 March.
Suspension of prohibition by J. Busby.

Having brought all these transactions under the consideration of the Executive Council, I directed, in conformity to their advice, a letter to be addressed to Mr. Busby, of which I transmit a copy. I have not received any communication from Mr. Busby in reply, nor have I been able to learn whether the prohibition of Spirits at Hokianga is acted on. I have reason to suppose that M. de Thierry will not present himself to the New Zealanders.

Instructions sent to J. Busby.

I have, &c.,

RICHD. BOURKE.

[Enclosures.]

[Copies of these papers will be found in a volume in series III.]

LORD GLENELG TO SIR RICHARD BOURKE.

(Despatch No. 128, per ship Moffatt.)

Sir, Downing Street, 12th March, 1836. 12 March.

I have received your Despatch No. 86 of the 2d of September last, enclosing a Memorial from Mr. E. S. Hall, praying for compensation for the delay which has taken place in giving possession to his family of part of an allotment of Land promised to them by General Macquarrie. The delay complained of seems to have been occasioned by the difficulty which was found to exist in completing the survey of the various Grants, and particularly those at a distance from the Seat of Government. The inconvenience sustained by Mr. Hall was one to which he was subjected in common with many other Settlers; and I cannot admit that he has any claim to compensation from the Government on such grounds.

Despatch acknowledged.

Refusal of compensation for E. S. Hall.

I am, &c.,

GLENELG.

LORD GLENELG TO SIR RICHARD BOURKE.

(Despatch No. 129, per ship Moffatt.)

Sir, Downing Street, 14th March, 1836. 14 March.

I have received your Despatch No. 85 of the 1st of September last, enclosing a Memorial from Mr. T. C. Harington, praying for a Grant without purchase of 6,600 acres of Land at New South Wales.

Despatch acknowledged.

1836.
14 March.
Claims by
T. C. Harington
to land grant.

It appears that Mr. Harington, in the year 1833, introduced into the Colony Capital to the amount of £6,600, and memorialised the Secretary of State, praying for a Grant of one acre of Land for every Pound Sterling introduced, that being the proportion in which, to a certain extent, Land was then granted in the Colony. At the same time, Sir Thomas Brisbane allowed his provisional occupation of 6,600 acres. On the 22d of February, 1826, Earl Bathurst directed that Mr. Harington should receive the Land applied for, provided he had not already obtained a Grant, and provided also that the amount of the Capital at his disposal gave him a fair claim to such indulgence. In the mean time, Mr. Harington had laid out £5,100 of his original Capital in the purchase of Land from private Individuals, and, at the period when Lord Bathurst's Instruction above referred to reached the Colony, the Land Board reported that he had in his possession Capital available for the cultivation of Land to the amount only of about £2,000.

Land authorised
by R. Darling.

Sir R. Darling, therefore, only felt himself justified in authorising a Grant to Mr. Harington of 2,640 acres, together with a permission to lease a further portion or to purchase 10 square miles, if he should be disposed to do so.

Approval of
decision of
R. Darling.

It appears to me that Sir Ralph Darling rightly conceived the intentions of Lord Bathurst. It could not reasonably have been intended that the Capital, which had already been devoted to the purchase of Land and to its improvement, should be considered as still giving Mr. Harington a claim to receive Land. The Land assigned by Sir Ralph Darling was to the full extent, which was warranted by the available Capital possessed by Mr. Harington. That Grant I am prepared to sanction, although it is to be regretted that the question was not brought under the consideration of His Majesty's Government at an earlier period; but I should not feel myself justified in permitting Mr. Harington to acquire more than 2,560 acres, otherwise than by Purchase.

Land grant
authorised.

I am, &c.,
GLENELG.

SIR RICHARD BOURKE TO LORD GLENELG.

(Despatch No. 36, per ship Kinnear; acknowledged by Lord Glenelg. 12th August, 1836.)

15 March.
Return of
T. L. Mitchell
from
exploration.

My Lord,

Government House, 15 March, 1836.

In my Despatch of the 12 October last, No. 101, I announced the Return of the Surveyor General Major Mitchell from the Exploring Expedition,* upon which I had sent him, and

* Note 10.

transmitted a printed copy of a Report containing a short account of his Journey. I intimated at the same time my intention of sending out another Party to complete what the Sr. General had left unfinished. I have thought it advisable to place this Party* under the direction of the same Person, and the Surveyor General has accordingly just left Sydney for the interior. He is instructed to finish the trace of the Darling, and upon reaching the Murray, into which there is little doubt the Darling falls, to return by the Murray to the located parts of the Colony. Sturt, it will be remembered entered the Murray from the Morumbidgee, and no part of the former River above that Junction has been traced, unless it should have happened that Messrs. Hovell and Hume crossed upon it in 1824. If the Instructions with which the Surveyor General is furnished (a copy is transmitted) be successfully executed, a considerable addition will be made to the Geography of the Colony in the direction which it is most useful to explore. There is reason to believe that the Country on both Banks of the Murray and generally between the Australian Alps and the Morumbidgee contains fine pastoral tracts, well watered by streams issuing from those Mountains, whose summits in one part are usually covered with snow. The Eastern side of these Mountains is already celebrated as an admirable grazing country. The Downs near Port Phillip have lately become known for the excellent pasture they afford to Sheep. The course† pursued by Hovell and Hume in 1824 discovered a great extent of such land. The general feature and character of the vast extent of country,‡ contained within the course of the Morumbidgee and the Sea from Lake Alexandra by Wilson's Promontory and Cape Howe to the 35 parallel of Lat. on the Eastern Coast of New Holland, may thus be in a great measure finally determined by this Expedition. In like manner, the geographical knowledge of a large portion of Country to the Northward of the Morumbidgee will have been completed by tracing the Bogan into the Darling and the Darling into the Murray.

In the Despatch before referred to, I stated that a Map and Copy of the Sr. General's Journal would be immediately forwarded to Your Lordship according to Instructions. I regret to say I have not been able to procure a copy from that Officer, who has pleaded other business as the cause of his Journal not being copied or made out from the notes he took whilst in the field. I do not consider this apology as admissible, considering the time that has elapsed since his return in September last, and more especially as he asked leave of absence from his Office at Christmas and obtained it, one of his objects being, as he assured

1836.
15 March.

Departure of
T. L. Mitchell
on expedition.

Objects of
expedition.

Speculations
re land in
Murray river
watershed.

Country to
be explored.

Delay by
T. L. Mitchell
in submitting
copy of journal.

* Note 79.

† Note 103.

‡ Note 104.

1836.
15 March.
Memoranda
taken by
T. L. Mitchell
on expedition.

me, the completion of his Journal. To this neglect, he has added the strange indiscretion of taking his original memoranda with him on this second expedition, thus risking the fruits of the labors of the first.

I have, &c.,

[Enclosure.]

RICHD. BOURKE.

[A copy of these instructions will be found in a volume in series V.]

SIR RICHARD BOURKE TO LORD GLENELG.

(Despatch No. 37, per ship Kinneear.)

16 March.

My Lord,

Government House, 16 March, 1836.

Transmission
of memorial
from merchants
re oil trans-
shipped in
New Zealand.

The Memorial, of which a copy is annexed, was addressed to me in October last by the Merchants whose names are subscribed, Messrs. R. Campbell, Junr., and Co., and Mr. Sylvester John Brown. Its object was to procure admission to entry at this Port as British Produce of certain oil originally caught by British vessels, but transhipped at New Zealand, and thence brought to Sydney in an American Bottom, in order to avert the dangers and losses apprehended from the circumstances stated in the Memorial.

It was, however, impossible to admit the oil as British, the navigation Law clearly pointing it out as having lost this character by its trans-shipment. Whether the duty payable for foreign produce should under the special circumstances be remitted. I have not found it necessary to consider here, as the oil is entered for Exportation. The Parties, however, inform me that they intending sending it to England, and, if it appear more profitable to dispose of it there for Home-consumption, to apply for liberty so to do, on paying the duty chargeable on the Produce of the British Fisheries.

I have therefore consented to forward a Copy of their case, and to state, for Your Lordship's information, and that of the Commrs. of H.M.'s Customs, my belief of the circumstances therein related.

I have, &c.,

[Enclosure.]

RICHD. BOURKE.

[A copy of this memorial is not available.]

LORD GLENELG TO SIR RICHARD BOURKE.

(Despatch No. 130, per ship Moffatt.)

17 March.

Sir,

Downing Street, 17th March, 1836.

Despatch
acknowledged.

I have received your Despatch No. 82 of the 18th of August last, reporting that you had been compelled to obtain the consent of the Council for the appropriation of a Sum of

£50,000 as a Loan to the Military Chest, and that you had applied the sum of £10,000 from the Land Revenue to the same purpose, making, together with a former advance from the Colonial Treasury, a debt due to the Colony from the Military Chest, amounting to £110,000. I have also received the letter which accompanied your despatch, addressed to the Colonial Agent under a flying Seal, enclosing Bills for £50,000 issued by the Commissariat Officer on account of the first Loan to that amount, which Bills you were desirous should be converted into British Silver money for the use of the Colony.

1836.
17 March.
Loans to
military chest.

Bills received.

I deemed it most advisable to submit your Despatch, together with the letter which was addressed to the Agent, for the consideration of the Lords Commissioners of the Treasury; and I enclose for your information and guidance a copy of their Lordship's reply; from which it appears that, since the beginning of the year 1835, consignments have been made to the Officer in charge of the Commissariat at New South Wales of British Silver to the extent of £89,000. The Lords Commissioners do not, therefore, consider it necessary to make the remittance contemplated in the letter to the Colonial Agent, as the Commissariat Officer will have been enabled to repay from the Funds in his hands a large portion of the Loan, and will be further enabled to replace the whole amount of the sums advanced to him. You will further perceive that the Bills, which you sent home, have been cancelled, the amount remaining to the credit of the Colonial Fund (except in so far as repayment may have already been made by the Commissariat Officer at Sydney) to be adjusted in the Colony, or otherwise arranged as may be found most convenient.

Consignments
of British
silver.

Remittance
of silver
unnecessary.

Cancellation
of bills.

I am, &c.,

GLENELG.

[Enclosure.]

MR. A. Y. SPEARMAN TO UNDER SECRETARY STEPHEN.

Sir, Treasury Chambers, 4th March, 1836.

I am commanded by the Lords Commrs. of H.M. Treasury to request you will state to Lord Glenelg, with reference to the communication you have made to this Board of the 9th Ultó., that my Lords, having since the beginning of Jany., 1835, made Consignments of British Silver to the Officer in Charge of the Commissariat at N. S. Wales to the extent of £89,000, whereby he will have been enabled to repay to the Colonial Govt. a large part of the sums advanced to him on the Security of his Bills upon this Board, it does not appear to my Lords that any necessity now exists for the immediate remittance contemplated in the Communication from the Colonial Secretary to the Agent Genl. for the Colony of 18th Aug. last. My Lords will not fail to take such further measures for the supply of the Military Chest as will enable the Commissary to replace the whole of the sums advanced from the Colonial Treasury

Remittance
of silver as
requested
unnecessary.

1836.
17 March.

as they may be required for carrying on the different branches of the Colonial Service. My Lords are at the same time aware that the Agent Genl. could not at present obtain the quantity of Silver Coin wh. he has been called upon to remit, neither should my Lords have considered it expedient that the management of a transaction of this description, and to so large an amount should have been delegated to the Agent.

Cancellation
of bills.

You will further state to Lord Glenelg that, under the circumstances to which my Lords have adverted, they have given directions that the Bills to the amount of £50,000 forwarded to them in your letter should be cancelled; and that amount therefore remains to the credit of the Colonial Fund of N. S. Wales in account with H.M. Govt., except in so far as repayment may already have been made by the Commissary at Sydney, and to be adjusted in the Colony or otherwise as may be found most convenient.

Amount
credited to
colonial fund.

I am, &c.,

A. Y. SPEARMAN.

SIR RICHARD BOURKE TO LORD GLENELG.

(Despatch No. 39, per ship Kinnear; acknowledged by lord Glenelg, 30th November, 1836.)

18 March.

My Lord,

Government House, 18 March, 1836.

Transmission
of report *re* loss
of ship *Hive*.

Referring to my Despatch of the 20th December last, No. 120, communicating intelligence of the loss* of the Prison Ship *Hive*, I have now the honor to transmit the Report of a Board of Officers appointed to enquire into the circumstances which led to this disaster. On perusal of which Your Lordship will probably be induced to direct measures to be taken for preventing the expence, to which this Government has been put, from falling ultimately on the public. I have, &c.,

RICHD. BOURKE.

[Enclosure.]

[A copy of this report is not available.]

LORD GLENELG TO SIR RICHARD BOURKE.

(Despatch No. 132, per ship Moffatt; acknowledged by Sir Richard Bourke, 10th November, 1836.)

25 March.

Sir,

Downing Street, 25th March, 1836.

Appointment
of bishop of
Australia
as member of
executive
council.

I transmit to you herewith an Additional Instruction which His Majesty has been pleased to issue appointing the Bishop of Australia for the time being to be a Member of the Executive Council of your Government in the place of the Archdeacon.

I am, &c.,

GLENELG.

[Enclosure.]

[A copy of this instruction will be found in a volume in series IV.]

LORD GLENELG TO SIR RICHARD BOURKE.

(Despatch No. 133, per ship Moffatt.)

1836.
26 March.

Sir, Downing Street, 26th March, 1836.

I transmit to you, herewith, a letter which I have received from Mr. E. W. Rudder, containing an application for a Grant of Land in consideration of the losses, disappointments and difficulties which he has experienced; and I have to request that you will acquaint him that I can only express my regret that the established Regulations, as they have been invariably understood and enforced by my Predecessors in similar cases, forbid my complying with his application.

Application by
E. W. Rudder
for land grant.

Refusal of
land grant.

It is scarcely necessary for me to add that those Gentlemen, to whom Mr. Rudder refers and with whom he appears to have been in the first instance in some degree associated, although they arrived in the Colony after the repeal of the late Regulations, were permitted to receive Land under those Regulations, because they gave the necessary assurance that they had made their arrangements and had gone out in ignorance of the change of system; whereas Mr. Rudder was distinctly informed, when in this country, that a departure from the general rule could not be permitted in his favor.

Reasons for
making certain
land grants.

I am, &c.

GLENELG.

[Enclosure.]

MR. E. W. RUDDER TO LORD GLENELG.

My Lord, Sydney, New South Wales, 14 Novr., 1835.

On the 7th of Augt., 1832, I had the honor to address a Memorial to the Right Honl. Viscount Goderich then his Majesty's Secretary of State for the Colonies, referring to the Petition of Messrs. Allport, Ward, Betts, Chapman and Sharrat, dated Hobart Town, Jany. 9th. 1832, which had been favorably received by his Majesty's Government, and soliciting on my part that I might be placed upon the same footing as the said parties, since I had, in conjunction with Mr. Allport so early as 1829, projected the undertaking in which they had embarked; and that I had, after making every necessary preparation, been prevented leaving England for this Colony by a succession of circumstances over which I had no controul, although I had not abandoned my intention. This memorial was accompanied by recommendations to the Government to allow me a grant of land bearing the signatures of the following Gentn., to most of whom I had been known from my infancy, and who were my personal friends, one of whom obtained most of the signatures and presented the document to me for enclosure with my memorial, viz., Daniel Ledsam, High Bailiff of Birmin.; Edward Johnson, M.D.; Thos. Lee, a Magistrate for Warwickshire; J. T. Ledsam, Deputy Lieutenant and a Magistrate for Warwickshire; George Attwood, Banker; Thos. Attwood, Banker; T. H. Moggridge, a Magistrate and Depy. Lieut. for Monmouth and Glamorganshire; Theodore Price, a Magistrate, etc., etc., for Warwickshire; Rice Harris; Robt. Martineau; H. T. Devey, Capt., 7 Fusiliers; Thos. Izon, and Revd. T. A. James. To this Memorial, Viscount

Former
memorial from
E. W. Rudder
soliciting land
grant.

1836.
26 March.

Refusal of
application.

Further
negotiations.

Goderich did me the honor to inform me, through Mr. Hay in a letter dated 20th Augt., 1832, That, had I embarked at the time the parties alluded to did, I might probably have been admitted to the same benefit; but that, as the ground upon which the indulgence had been extended to them, did not then apply to my case, his Lordship was Sorry to be under the necessity of declining to comply with my application.

I replied to his Lordship's communication stating the discouraging nature of the regulations now in force, and referred to the statements* made by Dr. Jas. Ross as published by him in the Van Dieman's Land Almanack of that year, and hoping that the Government would consider my case as one affording a sufficient opportunity for relaxation from strict conformity to the rules his Majesty's Government had acted upon. Viscount Goderich again honored me with a reply, Dated Aug. 31, 1832, wherein his Lordship states, through Mr. Hay "that the indulgence I sought involved a principle, which, if his Lordship conceded in my case, he would be called upon to apply to that of every person who might have intended to emigrate to these Colonies before the New Regulations came into force, but who might never do so, and that therefore his Lordship regretted the necessity which existed for his adhering to his former decision." Under these circumstances although greatly disappointed, I felt that, if I could assure his Majesty's Government of the sincerity of my representations by putting my plans into execution, my request might yet meet with a favorable reception. After meeting with great delays and incurring very considerable additional expences, I sailed for these Colonies in the Princess Victoria of Grenock from Liverpool in Sept., 1833, and arrived in Sydney on the 4th of Feby., 1834, where I have had my residence up to the present moment. Since my arrival in the Colony, I have visited Van Dieman's Land, and gone through that Colony; and I have also visited the northern part of this Colony and penetrated some distance beyond the limits. Having at length fixed upon a spot which I thought eligible, I applied to purchase it through the prescribed channel on the 22nd of April, 1835. On the 9th of Sept., in conformity with the regulations for the sale of Crown Lands, I attended the Auction when the Land was put up but not sold in consequence, as stated by the Collector of Internal Revenue, of not having been measured. Since then up to the present time, no report of the measurement has been received from the Surveyor, a period of 7 Months all but 8 days. It would be impossible for me to convey, within the limits of the present memorial, any estimate of the various direct and contingent losses and disappointments I have been subjected to through the delays, I have experienced both prior to my arrival in the Colony and subsequent to it, amounting, as your memorialist verily believes, to more than £1,500; under these circumstances I have thought the time has arrived when I might with propriety renew my application to his Majesty's Government. My conduct since my arrival here has been open to the observation of my fellow Colonists, and I trust has been such as will bear the strictest investigation. His Excellency Sir R. Bourke, our esteemed Governor, has it within his power to contradict that part of my statement, if incorrect, which relates to the period of my residence in this Colony; but I have no doubt he will do me the honor to attest their correctness, so far as the circumstances have come within his cognizance.

Arrival
in colony.

Application
to purchase
land.

Losses incurred
by delays.

* Note 105.

Having thus briefly and without having in any way extenuated the nature of the various difficulties I have had to encounter, with a very young family of eight children, I have respectfully to solicit of his Majesty's Government that I may be allowed to select such a portion of unappropriated Land within the limits of the Colony, as may afford, in the estimation of the Government, such an equitable compensation as the nature of the disappointments, losses and difficulties, I have had to contend against, may reasonably admit of, and thereby give that encouragement to immigration which the favorable reception of my application would be calculated to diffuse. Your memorialist would venture to hope that an enlightened and liberal Government, entertaining a paternal regard for the welfare of its subjects, may feel the present to be a case in which it may, without compromising its dignity, confer a favor which would be calculated to remove the unfavorable impression, which the disappointment of a numerous family is calculated to produce upon the minds of a respectable and extensive circle of anxious friends towards immigration to this Colony, many of whom would in all probability come out, could they but see encouragement held out commensurate to the risk and expence of the undertaking; I would take leave respectfully to state that I was first led to look towards this Colony from the facilities held out by the regulations for the granting of land in force in 1830, to the statements put forth with the sanction of the Immigration Committee, and finally with the hope that, when in the Colony, the difficulty, which prevented Viscount Goderich granting my request, would be removed. I have however forborne obtruding upon the notice of Government until compelled by the unexpected and almost insurmountable difficulties imposed by the New Regulations to the obtaining land and from foreseeing that, in all probability when the Land I have applied for is put up for sale a second time, I may be outbid by some wealthy settler after having waited many Months, and supported a numerous family at a ruinous expence in Sydney, and, at the end of which, I should have to go over the whole process again with not only the possibility but the probability of the same result, after having incurred the expence of selection, the loss of Capital by delay, and the vexation and disappointment which must of necessity follow. It is therefore with feeling of the greatest disappointment, yet of deference and respect, I earnestly solicit your patient and favorable consideration of my present application.

I have, &c.,

ENOCH WILLIAM RUDDER.

LORD GLENELG TO SIR RICHARD BOURKE.

(Despatch No. 134, per ship Moffatt; acknowledged by Sir Richard Bourke, 27th December, 1836.)

Sir, Downing Street, 27th March, 1836.

27 March.

I transmit to you herewith a statement, which has been received from Mr. Hindley, M.P., relative to some property which is supposed to have been left by James Schofield, a Convict at New South Wales; and I have to request that you will favor me with any information upon the subject for the benefit of the family of the deceased.

Report required
re deceased
estate of
J. Schofield.

I am, &c.,

GLENELG.

1836.
27 March.

[Enclosure.]

STATEMENT.

Property
alleged to
be left by
J. Schofield.

"In the year 1818, our father *James Schofield*, having been sentenced at Lancaster March Assizes to 14 years' transportation for uttering forged notes, was sent from Lancaster Castle to the Hulks, and thence to N. S. Wales, where he died before the term of his Sentence expired. He had, however, there accumulated some considerable property, and had appointed one Joseph Kenyon of Parramatta, a Settler, his Executor. This Joseph Kenyon sold some land that had belonged to him, but the proceeds thereof, as well as the other funds in his hands belonging to the deceased, having been claimed by the Govr. according we believe to the custom when a Convict dies, he had to give them up, and the money is now in the Govr.'s hands in consequence.

"Of these facts we have been informed by the Son of Joseph Kenyon, who came from Sydney to this Country some months ago, and, being instructed by his father to search for us the legal heirs of the above named James Schofield, found us out after a good deal of delay and difficulty."

LORD GLENELG TO SIR RICHARD BOURKE.

(Despatch No. 135, per ship Moffatt.)

28 March.

Sir,

Downing Street, 28 March, 1836.

Memorial
acknowledged
from T. Rose.

I have received your Despatch No. 67 of the 23d of July last, enclosing a Memorial from Mr. Thomas Rose praying for "a Grant of Land or such other mark of approbation as to His Majesty's Government may seem meet," in acknowledgment of the service which he has rendered to the Colony by constructing on his Farm an Embankment or reservoir for the supply of Water.

It is impossible for me to form a judgment, except from your report, as to the actual extent of the benefit which Mr. Rose may have conferred on his fellow Colonists; and, as I perceive that you do not consider yourself called upon to urge the propriety of rewarding the undertaking in the manner solicited, I can only arrive at the conclusion that Mr. Rose's claim is not such as to justify a compliance with his application.

I have, &c.,

GLENELG.

Refusal of
application.

LORD GLENELG TO SIR RICHARD BOURKE.

(Despatch No. 136, per ship Moffatt.)

29 March.

Sir,

Downing Street, 29th March, 1836.

Despatch
acknowledged.

I have received your Despatch, dated the 3d of October last, No. 93, enclosing various documents connected with the disputed pretensions of Messrs. Dowling and Burton to succeed to the temporary administration of the Office of Chief Justice of New South Wales, during the expected absence of Mr. Forbes from that Colony.

The question of the seniority of the two Puisne Judges was permitted by Mr. Burton to slumber, until the anticipated absence of the Chief Justice gave a new significance and importance to it. I do not, however, think that Mr. Burton's acquiescence in the lowest place on the Bench ought to prejudice any right, which he may possess to take precedence of his Colleague. A distinction, which from the desire of concord was waived when it seemed unimportant, may, without any inconsistency, be asserted when unforeseen circumstances have imparted to it a great apparent value.

But I must distinctly record my dissent from the opinion that the succession to the Chief Justiceship, whether that succession be permanent or provisional, is attached as a matter of right to Seniority on the Bench. His Majesty's Government are not only free, but are bound to pass over either or both of the Puisne Judges on such an occasion, if the interest of the Public at large shall appear to them to demand such a measure. On the other hand, I entirely concur with you that, during the temporary absence of the Chief Justice, the Judge next in Seniority ought to assume the duties of that Station, if he be competent to them, even though a person of still higher qualifications might present himself either on the Bench or at the Bar. The benefit, which Society might derive from the superior endowments of the provisional Chief Justice, would not compensate for the evil of subjecting the first Puisne Judge to an apparent degradation, nor is the pain, which must be inflicted on the feelings of that Officer, to be regarded as a matter of trifling concern.

As, therefore, you report that both Mr. Dowling and Mr. Burton are well qualified to act provisionally as Chief Justice, it becomes necessary to decide on which of them that Office is to devolve upon Mr. Forbes' approaching absence from the Colony.

Mr. Dowling's claim rests upon the facts that he is senior in standing to Mr. Burton on the New South Wales Bench, and that his Seniority in Rank has been hitherto admitted by his Colleague. Mr. Burton's pretension is founded upon the fact that he is senior in standing as a Colonial Judge, and he argues that, as in Westminster Hall, a Judge transferred from one Court to another retains on the change the Seniority incident to the date of his first Commission, so a Judge transferred from one Colony to another ought to retain the corresponding advantage.

It appears to me that the claim, thus preferred by Mr. Burton, is *not* tenable; but that you judged rightly in giving the preference to that of Mr. Dowling.

The Judges of the Courts in Westminster Hall, though usually sitting apart from each other, really constitute, for many

1836.
29 March.

Delay by
W. W. Burton
in claim to
precedency as
puisne judge.

Succession as
chief justice
independent
of seniority.

Senior puisne
judge to
succeed as
acting chief
justice.

Claims by
J. Dowling and
W. W. Burton
to seniority.

Decision in
favour of
J. Dowling.

1836.
29 March.

Seniority in
courts at
Westminster
hall;

purposes, one Judicial Body or College. They meet and act together in the Court of Exchequer Chamber, in the House of Peers, on all questions reserved by any of their number at Criminal Trials, and on many occasions of State and Ceremony. There is ample reason, therefore, why they should have amongst themselves some one rule of seniority, which may equally apply when they are acting in their separate Courts, and when they are acting in their collective capacity.

But the Judges of the numerous and widely distant Colonies of this Kingdom have no scene of action common to them all, nor indeed do the Judges of any two Colonies ever sit together in their Judicial character. The Members of the Superior Court of New South Wales are as completely separate from the Members of the Superior Court of Malta or of Jamaica, as are the Members of the Legislatures of those Settlements. The supposed analogy is therefore fallacious.

But the practical inconvenience of the Rule, for which Mr. Burton contends, is in the absence of any positive Law or undoubted Custom conclusive against it. First, it could not be made reciprocal. In most of the British Colonies, the right of seniority is determined by positive Law. A Judge, transferred from New South Wales to any of the greater number of those Settlements, would be excluded there from pleading his standing at the Australian Bench. Why then is the principle to be admitted *by* the Australian Colonies, when it could not be asserted *for* them. Secondly, the Bench in a large proportion of our Colonies is occupied by persons unlearned in the Law. Yet the rule, for which Mr. Burton contends, would give to such persons, on their transfer to any other Colony, a Judicial precedence over any Judges whom they might find there of inferior standing, though of superior qualifications to their own.

Whenever Mr. Forbes shall avail himself of his leave of absence, you will, therefore, execute your own purpose of calling Mr. Dowling to the temporary administration of the Office of Chief Justice of that Colony.

I am, &c.,

GLENELG.

SIR RICHARD BOURKE TO UNDER SECRETARY HAY.

(Despatch per ship Kinnear; acknowledged by lord Glenelg.
31st August, 1836.)

1 April.

Sir,

Government House, 1 April, 1836.

In reply to your despatch of the 8 Sept. last, I have the honor to inform you that, having brought before the Legislative Council the claim of Mr. James Scott to a maximum Grant of

Despatch
acknowledged.

Objections to
rule contended
by W. W.
Burton.

J. Dowling to
be acting chief
justice.

and in
colonial courts.

Land under the ancient Regulations, the Council determined, for the reasons which are given in the Minute transmitted herewith, that Mr. Scott had no valid claim, a conclusion in which I fully concur.

I have, &c.,

RICHD. BOURKE.

1836.
1 April.
Refusal of maximum land grant for J. Scott.

[Enclosure.]

PROCEEDINGS of the Executive Council relative to the application of Mr. James Scott for a Grant of Land.

Proceedings of executive council re claim of J. Scott to maximum land grant.

EXTRACT from Minute No. 6 of 2d March, 1836.

Present:—His Excellency the Governor; The Hon. Lt. Colonel Snodgrass; The Hon. the Colonial Secretary.

His Excellency the Governor laid before the Council a despatch from the Under Secretary of State, dated the 8th September, 1835, containing an application from Mr. James Scott for a maximum Grant of land under the former Regulations.

The grounds, upon which Mr. Scott claims this Grant, appear to be as follows, vizt.:—

- 1st. That he brought to the Colony sufficient capital to entitle him thereto.
- 2nd. That he was advised by Lt. Colonel Dumaresq, then Private Secretary to Sir Ralph Darling, to defer his application because it would be complied with at any time.
- 3rd. That his application was actually made before the promulgation of the new Regulations on the 1st July, 1831, but did not reach the Government through the want of regular means of communication.

The Council advised that copies of these communications should be transmitted to Lieut. Colonel Dumaresq with a request that he will state his knowledge of the circumstances, and particularly as to the amount of capital Mr. Scott brought with him to the Colony.

Extract from Minute No. 10 of 30th March, 1836.

Present, as before.

In reference to the proceedings on the 2nd instant, the Council resumed the consideration of Mr. James Scott's claim to a Grant of land under the former regulations, and His Excellency the Governor laid upon the table a letter from Lieut. Colonel Dumaresq, in reply to the enquiries made at the desire of Council. From this letter, it appears that Mr. Scott was sent from England by Lt. Colonel Dumaresq in 1828 to superintend his Estate in this Colony, and that he is not aware that he saw him until the month of November in the following year. Knowing that Mr. Scott was penniless, it seems to him impossible that he could have stated what he has affirmed in his Affidavit, which also makes it appear that he was Private Secretary at the period of his arrival, whereas Mr. Scott preceded him to the Colony many months.

The Council were of opinion that, as it appeared that Mr. Scott was not possessed of any Capital, he can have no claim whatever to a Grant of land under the former Regulations, and therefore could not recommend that his application should be complied with.

E. DEAS THOMSON, Clk., Col.

1836.
2 April.

LORD GLENELG TO SIR RICHARD BOURKE.

(Despatch No. 137, per ship Moffatt; acknowledged by
Sir Richard Bourke, 8th June, 1837.)

Sir,

Downing Street, 2d April, 1836.

Returns
required by
house of
commons *re*
criminal trials.

The House of Commons having presented an humble address to His Majesty praying "that He would be graciously pleased to give directions that there be laid before the House a Return of the number of persons charged with criminal offences, who were committed to the different Gaols in New South Wales and in Van Diemen's Land and the Dependencies thereon for trial at the Assizes or Sessions held for the several Counties or Circuits and Towns therein during the last seven years, distinguishing the number in each year, and shewing the nature of the Crimes respectively of which they were convicted or acquitted, and with which those were charged against whom no Bills were found, and who were not prosecuted, the sentences of those convicted, and the number of those executed, who received sentence of death, distinguishing Males from Females"; And His Majesty having been pleased to order a compliance with the same, I have to request that you will cause these returns to be prepared and transmitted to me at your earliest convenience.

I am, &c.,

GLENELG.

SIR RICHARD BOURKE TO LORD GLENELG.

(Despatch No. 40, per ship Augustus Caesar.)

My Lord,

Government House, 2 April, 1836.

Referring to my Despatches of the 2d November last, No. 107, and that marked separate of the 1st December, both relating to the leave of absence of Chief Justice Forbes, I regret to inform your Lordship that the state of health of Mr. Forbes will not longer allow of his remaining in the Colony, and that he proposes to avail himself of his leave to quit about the middle of this month. His anxiety for the public service and the credit of the court, in which he presides, induced him to continue his official labors much longer and more intensely than a due regard for his health warranted. His strength at last gave way, and an immediate change of air and scene with a cessation from business are deemed indispensable by his medical advisers.

Proposed
departure of
F. Forbes on
leave of
absence.

I have, &c.,

RICHD. BOURKE.

SIR RICHARD BOURKE TO LORD GLENELG.

1836.
3 April.

(Despatch No. 41, per ship Brothers; acknowledged by Lord Glenelg, 16th September, 1836.)

My Lord, Government House, 3 April, 1836.

Referring to Your Lordship's Despatch of the 4th July last, No. 17, I have the honor to transmit a Minute of the Ex. Council before whom that despatch was laid on the 25th February last. Upon considering its contents, the Council entertained some apprehension lest by a literal construction it might hereafter be conceived to invalidate the claim to remission in the purchase of Land in this Colony by officers retiring from the service, if they had previously made any purchase either at a Government Sale or by private hand. As officers frequently come out in Regiments ordered to this station with the intention of retiring from the service and becoming Settlers, when the Corps to which they belong is sent on to India, and, in furtherance of their views as Settlers, purchase whilst yet in the service portions of land which they think it desirable to obtain, their loss would be considerable if by such purchase they forfeited their claim to remission money on retiring. Such I believe is not the interpretation which should be put on Your Lordship's Despatch; but, to prevent any possible mistake in a matter interesting to many very meritorious Persons, I have thought it right to bring the question forward and solicit your Lordship's further commands in reply.

Despatch acknowledged.

Construction of conditions for remissions on purchase of land by military officers.

I have, &c.,

RICHD. BOURKE.

[Enclosure.]

PROCEEDINGS of the Executive Council relative to the Land Regulations as applicable to Retired Officers.

Proceedings of executive council *re* land regulations for retired officers of army and navy.

PRESENT:—His Excellency the Governor; The Hon. Lt. Colonel Snodgrass; The Hon. the Colonial Secretary.

Extract from Minute No. 5 of 25th February, 1836.

In reference to the proceedings on the 5th and 28th November, 1834, relative to the claims of Lieut. Colonel Dumaresq and Lieut. Lethbridge, R.N., to remission in the purchase of land according to existing Regulations, His Excellency the Governor laid before the Council a despatch from the Right Honorable the Secretary of State, No. 17 of the 4th July, 1835, stating that, as the advantages in which the applicants desire to participate were granted with a view to encourage officers of the Army and Navy either to emigrate to the Australian Colonies, or being there to quit their professions for the purpose of becoming permanent Settlers, and, as both the Gentlemen in question had already received Grants, they could only be considered in the light of Settlers established in the Colony, and therefore to them no such indulgence could be granted.

1836.

3 April.

Proceedings
of executive
council *re* land
regulations for
retired officers
of army and
navy.

The Council, entertaining some doubts whether, in the view which it appears the Secretary of State has taken of this subject, the claims of Officers to remission would be forfeited by any purchase of land they may make previously to retirement, recommended that the subject should be again brought under his consideration, as they conceive that such an interpretation of the Regulations would in many instances entirely prevent the Settlement of Officers in the Colony, and in all it would operate very injuriously on their interests, as they would thus be precluded from taking any previous steps for facilitating their successful settlement immediately upon their retiring from the service.

It appeared to Colonel Snodgrass that, although Lieut. Colonel Dumaresq and Lieut. Lethbridge may not be deemed entitled to remission in the purchase of land according to existing Regulations, as they had previously received Grants as ordinary Settlers, yet as neither at the time they received those Grants nor when they retired from the service, were they informed that, in accepting them, they would forfeit all claim to the indulgences held out to induce officers to retire from the service and settle in the Colony, he was of opinion that they are entitled to a reduction of the quit rent chargeable upon such a number of acres of their Grants as the amount of the remission money, they would be entitled to under existing Regulations, would purchase at 5s. per Acre. He cannot however consider that, in cases where officers have made small purchases from the Crown or from private individuals, previously to retiring, the despatch of Lord Glenelg can possibly be intended to exclude them. It would at all events in his opinion be unjust to suppose that it should have a retrospective effect, and, if it is to be made a rule prospectively, it will operate in his opinion as a great check to Officers settling in the Colony, and thus cause many Officers with large families to go on to India where they are likely to become victims to the climate, either by death when their families are thrown on the Government, or by disease rendering them unfit for service, and thus adding to the already numerous half pay list; as few Officers would send in their papers to retire, when it is known that, if they should purchase a small house or hut or possess in any way a portion of land as a homestead, they would forfeit all claim to the indulgence of His Majesty's Government to remission in the purchase of land, and at a time when every encouragement to place a respectable class of settlers in the Colony has been strongly recommended by the Immigration Committee of the Legislative Council, of which he (Colonel Snodgrass) was a Member. It is admitted on all hands that the Retired Officers of His Majesty's Navy and Army with their families and connections have been the most successful and respectable Colonists, and form generally speaking the great body of the Magistracy of the country.

He would therefore rather recommend that greater facilities be given to overcome the difficulties and discomfort, which officers experience in settling with their families in the wilds of Australia; and that some encouragement should be held out also to induce Soldiers with large families to remain in the Colony when Regiments proceed to the East Indies. At present there are about sixty women and 150 children, being the families of soldiers belonging to the 17th Regiment, proceeding to India, the greater part of whom would have formed useful Colonists. If a small grant

of land or even a free discharge could have been given, the expence of sending so many unprofitable men with their families would have been saved, and the too great probability of their being returned to Europe, when worn out, and their families thrown as Paupers on the Parishes, avoided whilst the great object of colonization would be promoted without incurring any expence from the Immigration Fund.

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

1836.
3 April.

Proceedings of executive council *re* land regulations for retired officers of army and navy.

SIR RICHARD BOURKE TO LORD GLENELG.

(Despatch No. 43, per ship Brothers; acknowledged by lord Glenelg, 27th August. 1836.)

My Lord,

Government House, 5 April, 1836.

5 April.

Amongst the many speculations on land which are afloat in this and the neighbouring Colony, I have now the honor to submit, in a letter from Van Diemen's Land, one of the most plausible. I have therefore consented to lay the project before Your Lordship, though I cannot recommend that the Regulations under which Land is now sold should be varied, either on behalf of this or any other application, which has yet been brought under my notice.

Transmission of application to purchase land.

Western Port is immediately adjoining Port Philip; and, if Your Lordship should consent to the Sale of land at the latter place, as recommended in my Despatch of the 10th October last, No. 99, the sale at Western Port will soon follow in extension of the occupations at the former, as it is probable the line of sea coast, when affording good pasture, will be preferred to the interior of the Country.

Proposed sale of land at Western port.

The Emigration from Van Diemen's Land to Port Philip continues in active operation. I trust I shall soon be honored by your Lordship's commands on the subject, lest such confusion should prevail there, as may require an interference on my own responsibility.

Emigration from Tasmania to Port Phillip.

I have, &c.,

RICHD. BOURKE.

[Enclosure.]

MR. R. L. MURRAY TO COLONIAL SECRETARY MACLEAY.

Sir, Dyrryorne, Van Diemen's Land, 10 March, 1836.

On behalf of a party of Gentlemen here and myself, I have to request that you will do me the honor to submit to His Excellency Sir Richard Bourke our wish to be permitted to purchase from the Crown fifty thousand acres of land at Western Port, To be selected fairly as respects water and every other frontage, taking good and bad together.

Application to purchase land at Western port.

For this we beg to offer five shillings per acre. and to pay to the Government a quit rent of ten shillings per one hundred acres towards defraying the expence of a Government establishment for our protection.

I have, &c.,

R. L. MURRAY.

1836.
7 April.

LORD GLENELG TO SIR RICHARD BOURKE.

(Despatch No. 138, per ship Moffatt.)

Sir,

Downing Street, 7th April, 1836.

Reports *re* loss
of barque
Charles Eaton.

With reference to my despatch No. 53 of 20th of October last, I transmit to you herewith for your information a Copy of a further communication, which I have received from Mr. W. Bayley containing some statements relative to the circumstances attending the loss of the Ship *Charles Eaton*, and I have to request that you will use every exertion in your power for the discovery of the Sufferers and for relieving them from the deplorable position in which they are represented to be. I have further to acquaint you that I have requested the Lords Commisrs. of the Admiralty to issue similar instructions to the officers commanding His Majesty's Ships in the South Seas.

Instructions
for relief of
survivors.

I have, &c.,

GLENELG.

[Enclosure.]

MR. W. BAYLEY TO LORD GLENELG.

My Lord,

Stockton, 4 April, 1836.

Transmission
of reports *re*
loss of barque
Charles Eaton.

I consider it my duty to transmit to Your Lordship the enclosed copies of letters, which I have lately received regarding the unfortunate Ship "*Charles Eaton*," the wreck of which in Torres Straits in August, 1834, has already induced your Lordship to interfere in behalf of the Crew and Passengers, some of whom it was believed had reached a Savage Island. The latter communication in the enclosed statements confirms that supposition; the former statement of the five men, who escaped to Tenember, involves the belief that there had been a Mutiny on board, for why otherwise should they have left their Captain (Moor) clinging to the Main-chain, and my relatives Captain and Mrs. D'Oyley and their children standing near to the Captain, when the sea was so tremendous as to threaten immediate destruction to all remaining on board? Mr. Wardell (who sends the communications) is the bosom friend and Executor of Captain Moor.

Request for
relief of
survivors.

I had the honor of an interview with your Lordship on this sad catastrophe in London in Feby. last, and your Lordship has already done me the honor to correspond with me on this distressing affair. May I now request the favor of Your Lordship to inform me if anything has reached the Colonial Office as to the fate of the Crew and Passengers of the *Charles Eaton*; and, if not, that your Lordship will be pleased to send out despatches to Sydney to have the five men, who escaped the wreck, brought to this Country immediately, and further search to be made for the crew and Passengers on all the Islands in or near Torres Straits. My friends were near relations of Sir Ch. D'Oyley in India. I cannot conclude without thanking your Lordship for the very kind and humane attentions paid to my applications and assuring you that

I am, &c.,

WILLIAM BAYLEY.

[Sub-enclosure No. 1.]

1836.
7 April.

MR. J. WARDELL TO MR. W. BAYLEY.

Dear Sir, London, 7 Billiter St., 25 March, 1836.

I hasten to send you Copy of a letter addressed to Mrs. Gledstones and Co. respecting the Charles Eaton. JAS. J. WARDELL.

Extract.

We have just received some intelligence respecting the unfortunate Barque Charles Eaton, which we hasten to impart to you. Five of the crew arrived here yesterday in a coasting vessel called the "Patriot," Commanded by Capt. Cums, from Amboyna and the following is their account of the loss. It appears that, when the Charles Eaton was close to the entrance of Torres Straits, she mistook a light of land for them and, before the ship could be put about, struck on the reef, the sea breaking heavily on them at the same time when the long Boat was instantly stove. When the five sailors left the Ship in the Jolly Boat, Capt. Moor was clinging to the Main chain and a Capt. D'Oyly, one of the passengers with his Lady and children, standing near him. The Sailors think all remaining on board must have perished; and, the sea being tremendous, the ship must have gone to pieces. After being 14 days in the Jolly Boat, they reached the Island of Tenember, which is to the N.E. of Timorland, where they were detained about a year as Prisoners to the Natives. They were eventually permitted to leave in a trading Vessel, Paalur Prow, for Amboyna where they arrived and were taken on board by Captn. Clunie. Their depositions have been taken before the Magistrates, of which the above is the substance; but, if we learn any more particulars, we shall let you have them.

Reports *re* loss
of barque
Charles Eaton.

An Extract from the papers concerning the fate of the Charles Eaton.

The Ship Mangles under my command arrived under Murray's Island in Torres Straits on the evening of 18th Sept., 1835; on the morning of 19th, several Canoes came alongside with shells, etc., to trade; in one was a white person apparently an European quite naked as the Savages. The greater part of the natives came on the Starboard quarter, the quarter boats being lowered half down for the purpose of Trade. I remained some time on the Starboard quarter, watching their movements till several had gone ashore and then went on the other side to enquire respecting the person whom I had seen; he then had dropped a little astern, and from enquiry I found he was an Englishman, wrecked some twelve months since in the Charles Eaton in Torres Straits, and wished much to come on board; but the Natives would not allow him; at the report of this, I manned and armed the Cutter and sent the second officer, Boatswain and six men to take him at any price, stationing myself on the poop with armed men to protect them in the event of any objection to his being given up; they hooked the Canoe with the boat Hook and told him they were come for him; his reply was "take that Man, he will go with you," pointing to a Savage before him; "no," said the second officer, "I am come for you and you I will have"; he immediately threw down the paddle he had in his hand and dashed under the Midship of the Canoe out of sight; I then ordered my Boat to return and said, "if he prefers a life with Savages to being with me, he may remain" and the Boat was

1836.

7 April.

Reports *re* loss
of *barque*
Charles Eaton.

hoisted up again. Subsequently the fourth officer told me he had said there were eight men on shore detained by the Natives, and what his motive could be for not coming into my Boat I am at a loss to conceive, as he might have stepped into her. However not feeling altogether satisfied, I manned and armed the Boat again and went myself in her close to the Beach with my Spy Glass, remaining there two hours; the natives were very anxious for me to land; but, seeing so many on the beach and many more behind the Bamboo work and a large Canoe ready for launching, I did not think it proper to do so. They brought a little European Boy (apparently 2 or 3 years old) down close to the Boat, but would not allow me to touch him. I also saw a Boat building under cover of a shed by European hands I am certain, but could not see a white man; after I returned on board, I watched with my glass the remainder of the day but still saw none, and remained all night at anchor, thinking it might be possible for some of them to make their escape; but, seeing nothing of them the next morning, at nine I weighed anchor and came away thro' the Straits and anchored under Booby Island on the morning of 21st and there got letters under a Memo. of H.M.S. Hyacinth having been there on 8th with a convoy from Sydney, all well, the Marquis of Huntley, Momson and Brig Childron.

That there are Europeans on Murray Island I have not the slightest doubt, and that they are detained by force or why not come to me; the one that was alongside I could not see again. I arrived at Timor, Copang Bay, October 1st, and found the Captn. and Crew of the *Jane* and *Henry* there. arrived the day before in the launch, wrecked on the Barrier Reef; I am now conveying them down to Somlach Straits, North side; they then proceed to Sourabaya.

[Sub-enclosure No. 2.]

MR. J. WARDELL TO MR. W. BAYLEY.

Dear Sir,

London, 2 April, 1836.

Since I last addressed you, further information reached us respecting the fate of the unfortunate *Charles Eaton* and of such nature as to encourage the expectation of seeing or hearing of them again. a copy of the particulars are now handed to you; and, as you have already held some communication with the Govt., this may induce you to repeat them.

Yrs. sincerely,

J. WARDELL.

LORD GLENELG TO SIR RICHARD BOURKE.

(Despatch No. 139, per ship *Moffatt*.)

9 April.

Sir,

Downing Street, 9th April, 1836.

Proposal for
increase of
salary for Revd.
J. B. Polding.

I have received your Despatch No. 94 of the 4th of October last, enclosing a copy of a Memorial addressed to you in Council by the Lay Members of the Committee of the Catholic Church at Sydney, praying for an increase to the Salary of the Revd. Dr. Polding, together with a copy of a Resolution of the Legislative Council recommending that the Salary of Dr. Polding should be increased to £500 a year.

Under all the circumstances, I shall not object to sanction the rate of Salary proposed to that Gentleman, which might be calculated from the 22d of September last, the date of the Minute of Council.

I am, &c.,

GLENELG.

1836.
9 April.

Increase of salary approved.

LORD GLENELG TO SIR RICHARD BOURKE.
(Despatch No. 140, per ship Moffatt.)

Sir,

Downing Street, 11 April, 1836.

11 April.

I have received your Despatch No. 96 of the 7th of October last, enclosing copies of two communications, which you had received from the Lieutt. Governor of Van Dieman's Land, containing the result of an enquiry instituted at Launceston under his direction for the purpose of ascertaining the circumstances which led to the loss of the Convict Ship "Neva."

Despatch acknowledged.

My despatch No. 102 of the 31st of January last, will have placed you so fully in possession of the sentiments of His Majesty's Government upon this subject, that it is unnecessary for me to enter further into the case in my present communication.

Previous despatch *re* loss of ship *Neva*.

I am, &c.,

GLENELG.

LORD GLENELG TO SIR RICHARD BOURKE.
(Despatch No. 141, per ship Moffatt.)

Sir,

Downing Street, 12th April, 1836.

12 April.

I have received your Despatch No. 101 of the 12th of October last, reporting the result of the late Expedition* which proceeded under the direction of Major Mitchell into the Interior of the Colony for the purpose of tracing the course of the River Darling.

Despatch acknowledged.

I regret to find that circumstances rendered it necessary for Major Mitchell to retrace his steps before he had had an opportunity of adding anything material to former Discoveries. I approve of your decision to prosecute the plan of exploring the Country in the vicinity of the Darling, and I trust that the next Expedition may be more successful in attaining its object.

Approval of proposed exploration.

I cannot close this Despatch without expressing my concern at the intelligence, which you have communicated, respecting the supposed murder of Mr. Richard Cunningham by the Natives on the Bogan River. It will give me great satisfaction to learn that the search, which you have instituted, has proved this apprehension to be erroneous, and has led to his recovery. Should that unfortunately not be the case, his Brother, Mr. Allan Cunningham, will succeed to the Appointment of Colonial Botanist.

Regret at report *re* murder of R. Cunningham.

I am, &c.,

GLENELG.

A. Cunningham to succeed as botanist.

* Note 10.

1836.
12 April.

SIR RICHARD BOURKE TO LORD GLENELG.

(Despatch No. 44, per ship Brothers; acknowledged by lord Glenelg, 9th November, 1836.)

My Lord,

Government House, 12 April, 1836.

Proposed
departure of
F. Forbes.

In conformity to the intimation conveyed in former Despatches, I have the honor to inform your Lordship that Chief Justice Forbes has fixed his departure for the 17th Instant. I have in consequence made the necessary arrangements for entrusting to Mr. Justice Dowling the duties of Chief Justice during the absence of Mr. Forbes, and for placing the Attorney-general Mr. Kinchela on the Bench during the same period. Your Lordship will have seen, in the enclosure to my Despatch of the 3rd October last, No. 93, that the Crown Lawyers consider the appointment of a Chief Justice for the time being to be required by the charter and on other legal grounds. That of the third Judge to complete the Bench is not less necessary for other reasons. Two judges could not, without greater exertions than it would be proper to require, perhaps with any exertion, get through the business of their station, and the suitors of the court have a right to the concurring opinion of two Judges, in case of difference of opinion on the Bench. The appointments, I have mentioned, are therefore the necessary consequence of the absence of Mr. Forbes.

J. Dowling to
act as chief
justice and
J. Kinchela as
puisne judge.

Necessity
for acting
appointments.

J. H. Plunkett
to act as
attorney-
general.

I have replaced the Attorney General by Mr. Plunkett, the Solicitor-General. I do not propose to appoint to the Office the latter vacates, but to employ a Barrister during the simultaneous sitting of two criminal courts, or on other necessary occasions. Additional business may thus be thrown on the Crown Solicitor, whose full employment and inadequate remuneration I have already represented to the Secretary of State in the Despatches named in the margin.* I have therefore allowed to that Officer as a temporary measure the employment of a copying clerk at the rate of £100 a year, and a charge for stationery not exceeding £25 per annum. I have directed that the acting Chief Justice, Puisse Judge and Attorney General shall each receive the Salary of the Office in which he acts. Upon the return of Chief Justice Forbes, each is to resume his former employment. Without an assurance to this effect, neither the Attorney or Solr. General could have been expected to vacate their respective offices for a temporary advancement. The latter indeed has stated to me that he will suffer a heavy pecuniary loss by the deprivation of private practice, the necessary attention to the duties of the Atty. General's office compelling him to neglect or abandon this source of profit.

Allowances
for crown
solicitor.

Resumption of
former offices
on return of
F. Forbes.

* *Marginal note.*—5 Dec., 1833, No. 98; 28 July, 1835, No. 70.

The foregoing arrangement will cause some additional expense in the Law Departments of the Colony during the absence of Mr. Forbes. But after much consideration I do not see, under all the circumstances of the case, how it could have been avoided.

1836.
12 April.
Increase in
expenditure.

I have, &c.,
RICHD. BOURKE.

SIR RICHARD BOURKE TO LORD GLENELG.

(Despatch marked "Separate," per ship Brothers; acknowledged by lord Glenelg. 9th November, 1836.)

My Lord, Govt. House, Sydney, 12 April, 1836.

In my Despatch of this date No. 44, I informed Your Lordship of the arrangement I had determined to adopt for carrying on the business of the Supreme Court on the Departure of Chief Justice Forbes on leave. In addition to the reasons I have given for the measure therein detailed, I should add that, considering the great loss I shall sustain by the absence of Chief Justice Forbes from Council, I judged it absolutely necessary to place an efficient Person there as Attorney General. Your Lordship is already aware that the malady, under which Mr. Kinchela labours, renders him incapable of taking that part at the Council Board, which, from his connexion with the Government, is to be expected of him, and that I receive but little assistance in carrying my measures through Council from the Civil Servants, who have seats, some of them, as well as some of the Colonists who were put in by my Predecessor, being opposed to the views I take of many important Colonial questions. Chief Justice Forbes has hitherto lent the Government his powerful aid, and I have every reason to expect the sincere good will of his temporary successor; but, being unused to Council and his station not permitting the same freedom of communication with him on the part of the Government as with the Attorney General, it became indispensable to appoint an efficient as well as faithful advocate to that office. I reckon upon obtaining very valuable assistance from Mr. Plunkett.

Necessity for
J. H. Plunkett
as attorney-
general in
legislative
council.

Opposition in
council to
Sir R. Bourke.

Services in
council of
F. Forbes.

I have no reason to imagine that, by placing Mr. Kinchela on the Bench, I shall in any way impede the public service. This Gentleman held for many years the Judicial Office of Recorder of Kilkenny, and, though, at that time afflicted with deafness which is with him a constitution malady, he found, I understand, no difficulty in discharging the duties of his station which were very considerable. In every other respect he is beyond all doubt fully competent to the Office. It seemed necessary, in

Competency of
J. Kinchela as
puisse judge.

1836.
12 April.

Necessity for
third judge in
supreme court.

consequence of the difference of opinion which has lately taken place between Judges Dowling and Burton on the subject of their respective rank, to place a third Judge on the Bench to prevent the Effects of any unfortunate collision, and to obtain the judgment of a full court when required. By the appointment of Mr. Kinchela, I shall thus continue the efficiency of the Supreme Court and obtain the assistance I desire in Council.

Reasons for non-
appointment
of solicitor-
general.

In abstaining for the present to appoint a Solicitor General, I have been influenced as well by the recommendation of Mr. Justice Burton, contained in the Paper I had the honor to transmit with my Despatch of the 5th December, 1833, No. 98, as by a desire to avoid the jealousies which such an appointmt. would excite in the limited Bar which this Court presents. I should, however, have found in Mr. R. Therry a Person fully qualified to fill the Office, and one whose zeal and ability in forwarding the views of His Majesty's and of the local Government entitle to the fullest consideration. I beg therefore very earnestly to recommend Mr. Therry for an appointment in the Law Department of this Colony and especially for that of Solicitor, if Mr. Plunkett should be promoted and the office kept up. The Crown Lawyers are at issue with Mr. Burton upon the practicability of carrying on the Crown Business in Court with one Barrister only. Certainly the employment of a second, with high fees, will be occasionally necessary. Mr. Kinchela is desirous of obtaining the place of a puisne Judge, for which he informs me he was destined by the Secretary of State upon a former occasion. In the event of such a promotion, I should consider this Government well supplied with Mr. Plunkett for Attorney and Mr. Therry for Solicitor General.

Competency of
R. Therry for
appointment.

Puisne judge-
ship desired by
J. Kinchela.

Appointments
proposed.

Probable
opportunity
for reforms
in court of
requests.

Upon the appointment of Mr. Therry to a situation in the Law Department, the Office of Commissioner of the Court of Requests would become vacant, and an opportunity be thus afforded for re-modelling these Courts as suggested in my Despatch of 30 October, 1832, No. 110.

Nomination of
F. Forbes for
knighthood.

I cannot conclude without respectfully suggesting to Your Lordship the propriety of bestowing upon Chief Justice Forbes when in England that mark of His Majesty's Gracious favor, which usually accompanies the office of Chief Judge. I believe it would be difficult in the whole range of Colonial Courts to point out a Person on the Bench, who, from integrity and ability, legal knowledge and devotion to His Majesty's Service, is better entitled to the honor of Knighthood* than Chief Justice Forbes.

I have, &c.,

RICHD. BOURKE.

* Note 106.

LORD GLENELG TO SIR RICHARD BOURKE.

1836.
13 April.

(Despatch No. 142, per ship *Moffatt*; acknowledged by Sir Richard Bourke, 15th September and 12th November, 1836.)

Sir, Downing Street, 13th April, 1836.

I have received your Despatch dated the 10th of October last, No. 99, reporting the proceedings of Mr. Batman and others at Port Phillip and Twofold Bay, and suggesting the measures which ought to be adopted to meet this new exigency in the affairs of your Government.

Despatch acknowledged.

I approve of the course which you have hitherto pursued on this subject, and especially of your Proclamation* maintaining the right of the Crown to the Soil on which these new Settlements have been effected. Although many circumstances have contributed to render me anxious that the Aborigines should be placed under a zealous and effective protection, and that their Rights should be studiously defended, I yet believe that we should consult very ill for the real welfare of that helpless and unfortunate Race by recognising in them any right to alienate to private adventurers the Land of the Colony. It is indeed enough to observe that such a concession would subvert the foundation on which all Proprietary rights in New South Wales at present rest, and defeat a large part of the most important Regulations of the Local Government.

Approval of policy re settlers at Port Phillip.

Objections to recognition of rights of aborigines to alienate land.

It is altogether superfluous to enter on the present occasion into any discussion or formal statement of the principles, which form the basis of the Rules according to which Land is disposed of in the Australian Colonies. The views of the Earl of Ripon have been adopted and enforced by every one of his Successors. The object of Lord Ripon's rules† was to counteract the tendency of Settlers in a new Country to disperse themselves as detached families over its surface, and to promote the cooperation of the Inhabitants in all Works of public utility, and in the employment of Labour and Capital. But to suppose that Lord Ripon could have contemplated the concentration of the People as the ultimate end to be aimed at, or that he regarded it in any other light than as the means through which other great Social purposes were to be attained, would, indeed, be entirely to misapprehend his policy. He deprecated dispersion in so far as it might interfere with the advancement of the Colony in wealth and other social advantages, and with the maintenance of those Religious and Scholastic Establishments to which he was so justly attached. But he would no less have deprecated concentration at the expense of any of those objects.

Principles for disposal of land in colonies.

If, however, my information be accurate, the Eastern Shores of New Holland, at least on the Southern half of that great

* Note 42.

† Note 107.

1836.

13 April.

Physical impediments to concentration of settlers.

Region, so far as they have hitherto been explored, whether Coastwise or Inland, present a physical impediment to the close concentration of the Inhabitants, with which it would be only futile to contend by human laws. The age of manufacturing industry is of course remote; Even Tillage can scarcely be pursued advantageously to any great extent, while the whole surface of the Country exhibits a range of Sheep-walks which, though not naturally fertile, are yet, when occupied in large Masses, of almost unrivalled value for the production of the finest description of Wool.

Colony adapted for pastoral pursuits.

New South Wales is, therefore, not only marked out by Nature for a Pastoral country, but for a Country of which the Pasturage must, from the quality of the Soil, inevitably separate the Shepherds and Herdsmen, and all their associates in labour, very widely from the general Seat of Government and from each other. The principle of counteracting dispersion, when reduced to practice, must unavoidably be narrowed within the limits which these physical peculiarities of the Colony dictate and require.

Inability to prevent dispersion of settlement.

But that principle must also bend to a necessity of a different kind. It is wholly vain to expect that any positive Laws, especially those of a very young and thinly peopled Country, will be energetic enough to repress the spirit of adventure and speculation in which the unauthorised settlements at Port Philip and Twofold Bay have originated. The motives which are urging Mankind, especially in these days of general peace and increasing population, to break through the restraints which would forbid their settling themselves and their Families in such situations, are too strong to be encountered with effect by ordinary means. To engage in such a struggle would be wholly irrational. All that remains for the Government in such circumstances is to assume the guidance and direction of enterprises, which, tho' it cannot prevent or retard, it may yet conduct to happy results.

Anticipation of public enterprise by private settlers at Port Phillip and Twofold Bay.

It may indeed admit of serious doubt, whether the Settlers at Port Philip and Twofold Bay have not in reality given birth to undertakings, which deliberate reflection would have recommended rather than discouraged. Each of those places will, probably at a time more or less distant, form the nucleus of a new and flourishing settlement, interchanging with the Districts at present occupied in the Vicinity of Sydney many articles of internal Commerce, and contributing to expedite the general occupation by the People of this Kingdom or their descendants of those vast Territories, in which our National wealth and industry have already, in the last half Century, converted an unproductive Waste into two great and flourishing Provinces. In

producing and multiplying such results as these, it has, I believe, always occurred, and is perhaps inevitable that the sanguine ardour of private speculation should quicken and anticipate the more cautious movements of the Government.

1836.
13 April.

I have entered on these general remarks not as supposing that they could convey to you any new information or suggestions, but from my solicitude to shew that, in yielding to the unforeseen exigency which has arisen, His Majesty's Government are not forgetful of or departing from those important principles of Colonisation, which Lord Ripon so earnestly inculcated. In truth I know not how, under the new circumstances of the case, effect could be given to those principles, unless the local Government should, as you propose, place itself at the head of the undertakings in which the unauthorised Settlers have engaged.

Necessity for yielding to settlement of Port Phillip.

The Settlement at Port Philip will probably be reinforced by a large number of Emigrants, and a considerable introduction of Capital from Scotland. I enclose for your information, copies of the correspondence in which I have already been engaged with some Gentlemen on that subject. You will perceive that I had, to a considerable extent, anticipated your own views.

Probable emigration from Scotland.

Respecting the arrangements to be made for settling a form of Government at Port Philip and Twofold Bay, I advance no further than to express my general concurrence in your views, and to sanction your acting on them in the manner which you propose. I feel that writing at this distance on a subject so novel and peculiar, I should rather encumber than assist you by attempting to enter with more minuteness into the details of your plan.

Approval of proposed form of government at Port Phillip and Twofold bay.

I am, &c.,

GLENELG.

[Enclosure No. 1.]

MR. G. MERCER TO LORD GLENELG.

My Lord, Dryden House, by Edinburgh, 26 Jan'y., 1836.

In the capacity of Shareholder and as Agent for the Geelong and Dutigalla Association,* I have the honor to lay before your Lordship, for the favorable consideration of His Majesty's Ministers, the accompanying Documents as per margin.†

Submission of papers by agent of Port Phillip association.

The object of the Association is to obtain, in the exercise of the Royal Prerogative, a recognition and confirmation by the Crown of the Treaties executed by the Aboriginal Chiefs, occupants of the

Objects of association.

* Note 108.

† 1 and 2. Copies of Mr. Batman's narrative of excursion to, and proceedings at Port Philip, transmitted to Lt. Govr. Arthur; and His Exy.'s reply thereto.

3 and 4. The originals of two Treaties (executed in triplicate) entered into with the aboriginal Chiefs, possessors of the Territory in the neighborhood of Port Philip; also copies of the same.

5. A map of the territory ceded by the head-men of the Dutigalla tribe.

6. An Address to the Rt. Hon. the Coll. Secretary by the Members of the Association.

7. Copy of Conveyance by John Batman to Chas. Swanston and others.

8. Copy of Indentures defining the objects of the parties; dated 29 June, 1835.

9. The Settlement in question not within the limits of South Australia, as described in the Act, 4 and 5 Wm. IV, C. 95 (See note 109).

1836.
13 April.

Soil; or, should His Majesty's Ministers see any legal objection to this recognition and confirmation, of which I am not at present aware, a Royal Grant of the Territories, as feudatories of the British Crown.

Advantages of
settlement at
Port Phillip.

In addressing your Lordship on a subject not less important I conceive to the British Empire than to the Associated Body, I would beg permission to offer to the consideration of His Majesty's advisers the many and great advantages proximately springing from the relief afforded by the Emigration of Settlers without charge to the State, and prospectively in the formation of a nucleus for a free and useful colony founded on principles of conciliation and civilization, of philanthropy, morality, and temperance; without danger of its ever becoming onerous to the Mother Country, and calculated to ensure the well-being and comfort of the Natives; the proposed system instructing and protecting, not exterminating them.

Request for
crown grant on
disallowance
of treaties.

Should His Majesty's Ministers see any objections to the recognition and confirmation of the native Treaties, I would presume to suggest that a Crown Grant of this Territory be issued in the names of John Batman and Charles Swanston, Esqrs., these Gentlemen having executed regular Deeds, binding themselves to act generally for the Members of the Association.

Catechist and
surgeon at
Port Phillip.

I may state for your Lordship's information that a Catechist is, I have reason to believe, even now exercising his functions there, and I trust instructing the benighted aborigines, through the medium of Mr. Batman's native servants as interpreters; and that a medical man is 'ere this giving his aid on the spot.

Effect on
natives of
disallowance
of occupation
of land.

In conclusion, I may be allowed to observe that no person save Mr. Batman could have accomplished this great object; and that the Association feel satisfied, if disturbed in the enjoyment of the Lands ceded by the Tribes under Treaties, Tabooed with the sacred symbols of their Chiefs which cannot and will not ever on their parts be broken, that, if such obstruction involving a failure on the part of the white man occur, reliance on him will be at an end; and the country, if ever, occupied hereafter by the extermination of the aboriginal proprietors alone.

Under such circumstances, I trust I may without presumption flatter myself that His Majesty's Ministers will be glad to find it consistent with their duty to the Crown and the country to sanction and foster a Colony founded upon principles of humanity and civilization, and opening a new field for Emigration and British Industry.

Proposal to
send settlers to
Port Phillip.

A Notice of this letter, at as early a period as may be compatible with your Lordship's other important avocations, would be highly acceptable, as I am instructed eventually to forward Settlers to Port Philip.

I have, &c.,

GEORGE MERCER.

[Enclosure No. 2.]

SIR GEORGE GREY TO MR. G. MERCER.

Sir,

Downing Street, 15th February, 1836.

Letter
acknowledged.

I am directed by Lord Glenelg to acknowledge the receipt of your Letter of the 26th Ult. with its various enclosures, soliciting, as Agent for an Association formed in Van Diemen's Land, a recognition and confirmation, on the part of the Crown, of an arrangement entered into by certain Members of that association with some Native Chiefs for the acquisition of a large portion of Land situated at Port Philip, in New South Wales, for the purpose of

forming a Settlement; and you further request that, if His Majesty's Government should see any legal objection to this recognition and confirmation, a Royal Grant of the Territories to be made to the Association as Feudatories of the Crown.

1836.
13 April.

In reply, Lord Glenelg directs me to acquaint you that the Territory, on which it is proposed to form the Settlement in question, is a part of the Colony of New South Wales, being comprised within the limits laid down in the Commission of Gov. Sir R. Bourke; and consequently, that it is impossible for His Majesty's Government to acknowledge any title to Lands acquired there except upon the terms prescribed in that Commission and the accompanying Instructions.

Refusal to recognise title of association to lands.

I have, &c.,
G. GREY.

[Enclosure No. 3.]

MR. G. MERCER TO LORD GLENELG.

My Lord, Dryden House, Edinburgh, 16th March, 1836.

I have had the honor to receive your Lordship's letter of 15th February, in reply to my Address under date 26th Jan'y., 1836, intimating that His Majesty's Government cannot acknowledge any title to Lands acquired by the Port Phillip Association, except upon the terms prescribed in the Commission and accompanying Instructions issued to Govr. Sir Richd. Bourke, the Lands in question constituting a part of the colony of New South Wales.

Letter acknowledged.

Sir Richard Bourke's Commission and Instructions have reference I presume alone to a penal Colony; and moreover it may not be impossible that the said Commission and Instructions were drawn at a time when the British Government deemed it expedient to meet and counteract a disposition evinced by the Government of France to form a Colony on that part of Australia. Consequently the territory of New South Wales might have been extended far beyond the limits adapted to a penal Colony.

Argument *re* application of governor's powers to penal colony only.

Port Phillip is about 600 miles from Sydney, and 400 from the nearest lands of that Colony yet occupied by British subjects with the sanction of Government, and will not therefore, under the slow and regular march of population, be located as a Penal Colony until some very distant period.

I have been given to understand that it is not the intention of His Majesty's Government to extend or increase Penal Colonies; and the same power that joined Port Phillip to, can I conclude with equal facility dis sever it from New South Wales, greatly I conceive to the advantage of the Mother Country.

Proposal for separation of Port Phillip from New South Wales.

These lands, unless formed into a free Colony, must, I am humbly of opinion, lie dormant, or be grazed by Squatters only for a century to come; Whereas, if now granted by the Crown to the Geelong and Dutigulla Association upon equitable terms, they will be speedily rendered a valuable acquisition to the State.

Probable use of lands at Port Phillip.

I may be permitted to observe that the purchase of the tract of Land, ceded by the Native Chiefs to the Association, upon the terms prescribed in the Commission and Instructions to Govr. Sir Rd. Bourke, is out of all question; unless the advantages of a full portion of Convict labor were accorded, as well to the Body purchasing, as for public purposes of general improvement, making roads, bridges, etc., thus involving the necessity of an expensive Government Establishment, Civil and Military, for the improvement

Inability to purchase land at Port Phillip on usual terms.

1836.
13 April.

of the Colony, for the control of the prisoners, and for the protection of the Settlers; in fact planting another penal Colony, with all its concomitant charges to the parent State.

Desire for free colony at Port Phillip.

The Association profess their wish to be a free Colony without pecuniary sacrifice to the Mother country; at the same time, every Member of it is aware of the absolute necessity of the presence of British Local Authorities to see that due protection be extended to all, and that justice be done to the Aborigines, whose welfare and general improvement the Association takes a pride in declaring to be one of its great objects, as evinced by the Tribute paid to and arrangements made with the Natives.

Outrages on natives at Hunter river and Portland bay.

It is unnecessary for me to call Your Lordship's attention to the fatal consequences at Hunter's River (about 100 miles only from the capital) of the absence of such amicable arrangements, and the presence of runaway Convicts; these combined causes operating destruction and murders in every direction. Yet I may take the liberty, as pertinent to the subject, and not perhaps so well known to Your Lordship, to advert to the many acts of aggression committed by the Whalers and others at Portland Bay, where a tract of country has lately been granted by the Home Government formerly refused to an application made by Memorial through Coll. Arthur (please see ultimate paragraph of Mr. Colonial Secretary Montagu's reply of 3rd July, 1835, to Mr. Batman), This tract having been occupied without previous friendly intercourse with the Natives and being beyond the operation of any present Law, consequently without local Government or authorities.

Quit rent proposed on crown grant to support new administration.

Assuming it, as I humbly do, to be the bounden duty of both Government and the soliciting Grantees to extend to these benighted people a full measure of kindness and protection, and, if possible, the blessing of Christianity, in lieu of advantages to be derived from the possession of the Soil by the British Empire and the Association, I would presume to suggest to your Lordship that a Crown Grant be given at a moderate Quit rent, sufficient for the support of a small but for the present adequate establishment, appointed by the Crown to superintend and protect all parties in and connected with a new free Colony. This acceded to by Government, the matter would resolve into a question of amount.

Conditions proposed for land grants to association.

Altho' as occupants in a free Colony, the Association would labor under many and great pecuniary and other disadvantages, comparatively with those located in a penal Settlement, yet the Body, for whom I act, would not, I have reason to believe, object to the Van Diemen's Land Company being taken as an archetype to found upon. And, this being acceded to by Your Lordship, the following Statement would be the result. I may be permitted to premise that that company selected 250,000 acres of available Land in six different and distant localities, being allowed 110,000 acres more supposed useless lands and not valued to them; and that they do, or may have, the full amount of their quit-rent, or even much more returned to them thro' the means of Convict labor, unknown in a free Colony.

Conditions of land grants to V.D.L. company.

The Van Diemen's Land Company have 360,000 acres, 250,000 of land fit for tillage and pasturage at 2s. 6d. equal to £31,250. Quit rent $1\frac{1}{2}$ per cent., equal to £468 15s., redeemable at 20 years' purchase, or £9,375 Stg.; Quit rent not payable until the expiration of five years from the date of the Grant or Charter. This latter stipulation the Association, deeming an immediate superintendence

by a Government Commissioner and Officers for the due protection of all parties of the utmost importance, would dispense with and willingly commence payment at the expiration of six months from the arrival of such Commissioners and authorities on the spot, always looking for a local expenditure of the Quit rent for the benefit of the Colony. Based on this principle, and reckoning 500,000 acres in the tract ceded in June last by the Chiefs to the Association, the Quit rent would amount to £937 10s. But, as this might not be deemed a sufficient sum for the proposed Establishment, were the tract to the East of the ceded territories to be included in the Grant or Charter as delineated on the accompanying map by lines from C 35 miles due South to E, and from E, 32 Miles about South West to D at Good water Creek on Port Philip, the whole estimated to contain on a liberal scale 750,000 acres of Land fit for tillage and pasturage, which can scarcely be expected, the territory lying in one continuous tract, the Association would thus be placed on such grounds as to justify a payment of £1,406 5s. per annum Quit rent, equal to the support of adequate public authorities, until the Colony become, by population and trade, of importance sufficient to require a larger establishment to be supported by a regular system of light duties on all imports except those of British Manufacture. Taking this view of the matter, the Association would become liable for an annual payment, as follows:—

	£	s.	d.
Tribute for present tract ceded	200	0	0
Do. proposed extended tract, say	120	0	0
<hr/>			
Total tribute to Native Chiefs ..	£320	0	0
Quit rent to the British Government	1,406	5	0
salary to Dr. Thompson, now acting in the combined capacities of Catechist and Surgeon an allowance of	180	0	0
<hr/>			
	£1,906	5	0

1836.
13 April.

Quit rent proposed by association for expenses of government.

Estimated annual payments proposed by association.

Payment of surgeon's salary.

The Associated Body would naturally expect to be relieved from the burden of Dr. Thompson's Salary, who would become a Government Officer on the Establishment when payment of Quit rent commenced.

Your Lordship will not fail to have observed the result of a late expedition sent to follow up Capt'n. Sturt's discoveries behind Lake Alexandrina, which had returned, having suffered loss in a skirmish with the Natives, a circumstance that could not have occurred, had an amicable intercourse with these unhappy beings been previously, as in our case, established; but instances of this description are too numerous to trouble your Lordship with.

In conclusion, I may be permitted to observe that, independently of British interests, on the score of humanity alone I humbly conceive it to behove His Majesty's Ministers to take this subject into their most serious consideration, and with as little delay as possible to plant British authorities at Port Philip for the prevention of Exterminating conflict, which will, I fear, inevitably ensue, as some squatters have possessed themselves of lands in the neighborhood without any previous arrangement with the natives; and also to give legitimate protection to flocks of great value (20 to £30,000) belonging to the Association, now grazing in the ceded tract.

Necessity for protection of natives and live stock at Port Phillip.

1836.
13 April.

I leave this on the 19th instt. for London, and will be prepared to wait upon your Lordship, whenever it may suit you to honor me with an audience. Any commands which may be transmitted under cover to Messrs. Spottisoodo and Robertson, will reach me and be promptly attended to.

I have, &c.,
GEORGE MERCER.

[Enclosure No. 4.]

SIR GEORGE GREY TO MR. G. MERCER.

Sir, Downing Street, 30th March, 1836.

Letter
acknowledged.

I am directed by Lord Glenelg to acknowledge the receipt of your letter of the 16th Instant, in which you state the terms on which the Association, on whose behalf you write, are desirous of obtaining Land in the Vicinity of Port Philip, New South Wales.

Officials to be
appointed and
lands sold at
Port Phillip.

Lord Glenelg directs me to acquaint you, in reply, that it is his intention to instruct the Governor of New South Wales to appoint Magistrates and any other indispensable Officers for the Government of the Settlement, which has been formed in the Quarter referred to, and to put up the Lands for Sale there at such a reduced upset price as, upon full consideration of the state of the infant Settlement, he may think reasonable.

But His Lordship directs me to add that the plan of disposing of Public Lands at a quit rent has been generally abandoned on the most ample experience of the many and insuperable difficulties with which it is attended.

I have, &c.,
G. GREY.

[Enclosure No. 5.]

MR. G. MERCER TO LORD GLENELG.

My Lord, London, 6 April, 1836.

Letter
acknowledged.

I am honored by the receipt of a letter of 30th ulto. from Sir Geo. Gray, under your Lordship's Instructions, in reply to my Address of 16th Ult., informing me of your Lordship's intention to direct the Governor of New South Wales to appoint Magistrates and other Officers for the Government of the Settlement, which has been formed in the vicinity of Port Philip, and to put up the Lands for Sale there at such a reduced upset price as, upon full consideration of the state of the Infant Settlement, he may think reasonable, and further, that the plan of disposing of public Lands at a quit-rent has been generally abandoned.

Erroneous
opinion re
jurisdiction at
Port Phillip.

Since I had the honor to receive that letter, farther and very important communications have been received by me from the Members of the Association up to the 30th of October in last year. They had originally considered that the territory in question was beyond the Jurisdiction of New South Wales, and had therefore addressed themselves to Lt. Govr. Arthur of Van Diemen's Land; but, as they had since learned, by the Proclamation* of the Govr. in Chief, that he exercised Jurisdiction over this Territory, they had requested of Coll. Arthur, with whom they had had repeated personal communication, to explain to His Excy. General Bourke the proposed plans of the Association, their capacity to carry these into execution, and the principles upon which they proposed to establish a Colony at Port Philip.

I take for granted that some Report upon this subject may already have been received by your Lordship, either from Coll. Arthur or Genl. Bourke.

* Note 42.

It is reported to me that considerable progress had also been made in forming the Infant Settlement; one Vessel had been purchased, and another hired for the conveyance of the Settlers connected with the Association, their Servants, and stock of Sheep, Black cattle and horses to Port Phillip. Besides those formerly on the Spot, several parties had already sailed, and others were preparing immediately to follow. Coll. Arthur (as I am informed) was to make a communication of all this to the Commander in Chief, recommending that a Military or Civil Officer should immediately be sent by him to exercise authority in the Settlement; and if that could not be immediately done, Coll. Arthur would send such a person from the Colony of Van Diemen's Land. I have no reason to doubt that by this time the Settlement, under the exertions of the Association, has attained a degree of importance which, from its admirable situation, holds out every fair prospect of advantage to the Mother Country and to all its Colonies in those distant regions, as well as to the original projectors of the plan.

1836.
13 April.

Progress of
settlement at
Port Phillip.

I may admit that the plan of selling lands in the Colonies already Settled in Australia by public auction is in general a beneficial one; this rule especially applies to a Penal Settlement, or one making progress by degrees, and where the Settlers are extending themselves gradually from the Seat of the Local Government. But I humbly submit that it is expedient to adopt other Rules in the present case, on behalf of the Association whom I have the honor to represent; and that it would be inequitable to admit other parties to enter into competition with them at Public Auction for a property, the whole value of which has been created by their exertions and with their capital.

Claim for
special terms
for lands for
association.

They themselves have made, formed and founded the Settlement at a heavy charge and great labor upon principles of Equity and humanity, and I may fearlessly add of philanthropy the most liberal and extensive, binding themselves to protect and sustain the quondam Native proprietors of the Territory as formerly explained to your Lordship. They have proceeded upon the whole on principles of justice and liberality heretofore unknown in the history of the British Colonies, and such as they humbly conceive entitle them to the special favor of Government.

Principles of
association in
formation of
settlement.

Under such circumstances, I am persuaded that your Lordship will permit me to advance a peculiar claim for the Association to exemption from the operation of the General Rule prescribing Sale by public Auction under local authorities, and to negotiate directly with His Majesty's Ministers for the freehold occupancy of the Lands, which, unless brought forward by that Body, might have remained comparatively valueless for Centuries.

Request for
special terms.

As your Lordship has declined the Quit rent plan, it behoves me to have recourse to a system of purchase in Fee Simple, though requested by my Constituents to avoid this if possible; but, if driven to it, to stipulate that a certain part of the price be laid out in benefiting by Immigration, and otherwise improving the Colony.

System proposed
for purchase of
land.

Adopting this view of the case, I would suggest to Your Lordship the purchase of the tract ceded* by the Native Chiefs to Mr. Batman, and that delineated on the Map now with your Lordship to the Eastward of this tract, and about an equal parcel of Land to the Westward formed by producing the Northern Boundary Line 30 Miles due West from B, and a perpendicular of about 65 miles dropped from the point thus obtained to or near to A, on

* Note 40.

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System proposed
for purchase of
land.

the Margin of the Sea, the whole comprizing, in a figure approaching to a parallelogram, about 3,000 Square Miles. For this I should propose a price of Twenty pounds (£20) per square mile overhead, of surface, consisting of good, bad, and indifferent land, hills, lakes, rivers, marshes, etc., one half the amount to be paid by equal Instalments in Ten years into the Colonial Treasury at Port Philip for the purposes of Emigration from Britain or otherwise, as the Government may deem proper; the other moiety to be expended in making roads, bridges, erecting Public Buildings, etc., for the improvement of the Colony under the Superintendence and control of a Board consisting of four Members, two appointed by Government, and two named by the Associated Body (the Superior Government Officer to have a casting voice), in the course of ten years, or extended over a greater period, if deemed necessary by the suggested Board.

I include the two lateral tracts, from a belief that these will ere this have been obtained by the Association under Treaties with the Aboriginal Chiefs; that to the Eastward I believe is certainly ceded to the Society before this time. The first payment of £3,000, more or less, to be made one year after the date of the Grant or Charter; The improvement Fund to be brought into operation as soon as possible after the Govt. Officers shall have reached their destination.

In making this proposition, I have exhausted my discretionary powers.

Transmission
of case and
legal opinion.

I deem it right at present to transmit to your Lordship the copy of the case, which I laid before Dr. Lushington some little time ago, with his opinion thereon. Your Lordship will see from this that, in his opinion, the right to the soil in question does not vest in the Crown. The Association entertains no doubt of the power of the Crown to oust them from the ceded Territory, if Government shall so see fit; But I am persuaded that, under the very peculiar circumstances of this case, the meritorious services of this Association will be fully appreciated by the Colonial Department; and that all questions that could be raised upon this subject may be superseded by an Equitable arrangement that would be beneficial to all.

I am obliged to return to Scotland immediately. Messrs. Spottiswoode and Robertson will receive and transmit to me any reply your Lordship may think proper to honor me with.

I leave the case, not with indifference as to the result, but with complacency, under a conviction that, in paving the way for a new Colony upon principles embracing equity, conciliation and civilization, I have performed an acceptable duty to my Country, and as far as lay in my power to those who deputed me.

I have, &c.,

GEORGE MERCER.

[Sub-enclosure No. 1.]

CASE.

Case for legal
opinion *re*
validity of title
of association
to lands at
Port Phillip.

THE accompanying Report No. 1 gives a detailed account of the occupation by Mr. Batman of a Tract of Land, situated at the South Western extremity of New Holland and in the vicinity of a Port marked upon the English Charts as Port Philip.

The documents Nos. 2 and 3 are copies of Deeds of Feoffment executed by the Chiefs of the Native Tribe living at and contiguous to Port Philip.

The document No. 4 is copy of a Letter addressed by the Members of the Association for forming a Settlement upon the Tracts of Land in question to the Secretary of State for the Colonies, soliciting a confirmation on the part of the Crown of the Tracts of Land granted by the Deed Nos. 2 and 3. This letter has not yet been delivered to the Colonial Secretary.

The Tract of Country in question is within the limits of Australia as defined in the Maps, of which the line extends from the Australian Bight to the Gulph of Carpentaria, but it is some hundred miles from New South Wales which is only a part of Australia.

Port Phillip was named after Governor Philip, the first Governor of New South Wales, who formed* a temporary Settlement there, which was immediately abandoned; and no act of ownership has since been exercised by the Crown.

The Natives are, as appears by the Report, an intelligent set of Men; and the Grant was obtained upon equitable principles, of which the Reservation of the Tribute is strong Evidence, and the purport of the Deed was fully comprehended by them.

The Gentlemen composing the Association have possessed themselves of a Tract of Country, and have Flocks and other Property there of the value of at least £30,000.

The following documents are added, as tending to illustrate the present situation of the Colonists as well as their views and intentions.

No. 5. Copy answer returned through the Office of Colonial Secretary of Van Diemen's Land to Mr. Batman's Report addressed to the Lieutenant Governor.

No. 6. Map of the ceded Territory.

No. 7. Copy Indenture made by John Batman, Charles Swanston and others for defining the objects of the parties, who propose to establish a Settlement on the ceded Territories.

No. 8. Copy conveyance of the ceded Territories made by Mr. Batman, and relative Declaration of Trust.

Your opinion is requested.

1. Whether the Grants obtained by the Association are valid?
2. Whether the right of Soil is or is not vested in the Crown?
3. Whether the Crown can legally oust the Association from their possessions?
4. What line of conduct or Stipulations would you advise the Association to pursue and make with the British Government; in particular ought they to offer Government any specific terms, and ought the whole of the documents now laid before you to be at once communicated to Government, or ought such communication to embrace only part of them; and if so, what part?

[Sub-enclosure No. 2.]

COPY: OPINION OF DR. LUSHINGTON.

1. I am of opinion that the Grants obtained by the Association are not valid without the consent of the Crown.

2. and 3. I do not think that the right to this Territory is at present vested in the Crown, but I am of opinion that the Crown might oust the Association; for I deem it competent to the Crown to prevent such settlements being made by British Subjects, if it should think fit.

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Case for legal opinion *re* validity of title of association to lands at Port Phillip.

Legal opinion *re* lands at Port Phillip.

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Legal opinion
re lands at
Port Phillip.

4. I think the most advisable course the Association can pursue is to give the Crown the fullest information on all points. I think it unwise and unsafe to hold back any Document or information whatever. Indeed the so doing might invalidate the security the association might derive from the Grants or Acts of the Crown.

I further think that it would not be expedient in the first instance to propose specific terms. The best course would be, after giving full information, to request the countenance, sanction and aid of the Crown; of course afterwards the security of the Lands by confirmation or Grant from the Crown should be obtained, under what conditions or restrictions, must be matter for subsequent negotiation with Government.

The present plan is truly speaking the planting of a new Colony; and nothing can be safely or effectually done but by the authority of the Crown.

STEPHEN LUSHINGTON.

Great George Street, 18th January, 1836.

[Enclosure No. 6.]

SIR GEORGE GREY TO MR. G. MERCER.

Sir,

Downing Street, 14th April, 1836.

Letter
acknowledged.

I am directed by Lord Glenelg to acknowledge the receipt of your letter of the 6th Instant.

Disagreement
with
S. Lushington
re title of crown
to lands at
Port Phillip.

In answer to one of the questions proposed by you to Dr. Lushington, that gentleman has stated that he does not think that the right to the Territory adjacent to Fort Philip is at present vested in the Crown. Lord Glenelg is sensible of the great weight which is due to the deliberate judgment of Dr. Lushington on a question of this nature. As however the grounds, on which Dr. Lushington denies the title of the Crown to the Territory in question, are not explained; and as Lord Glenelg is not aware of any fact or principle which can be alleged in support of such a conclusion, which would not apply with equal force to all the waste Lands in every other part of the Colony of New South Wales, His Lordship must decline to acquiesce in this doctrine, and cannot but believe that it was advanced by Dr. Lushington under a misapprehension of some of the most material parts of the case.

Jurisdiction
over lands at
Port Phillip.

Port Phillip and all the neighbouring territory forming a portion of the Colony of New South Wales, the lands in that vicinity cannot be disposed of except according to the Rules by which General Bourke is required by the King's Commission and by His Majesty's Instructions under the Sign Manual to alienate such property. Interests of very great and constantly increasing importance are involved in the steadfast adherence to those rules; and any departure from them at the present moment would involve a breach of faith to the numerous persons, who have engaged their property in effecting Settlements in other parts of the Colony of New South Wales and in the New Colony* of Southern Australia.

Problems
involved in
new colony at
Port Phillip.

The suggestion that a new Colony should be formed in the Southern portion of New South Wales, of which the Infant Settlement at Port Phillip should be the future capital, raises a question of great importance and difficulty, on which it would be impossible that His Majesty's Government should form a decision without much previous enquiry. They would probably think it right to postpone any such measure until after it should have been maturely considered by the respective Governors of the existing Australian Settlements. It is fit however that you should be distinctly

* Note 109.

apprized that a very considerable time must elapse before the establishment of such a new Colony; even if it should be ultimately thought right so to abridge the limits of the Colony of New South Wales.

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The proposal which, on behalf of the Gentlemen with whom you are associated, you have made for effecting the purchase at Port Philip of a Territory of 3,000 square miles at a sum of £60,000 Sterling, of which one half would be paid by annual Instalments in the next ten years, and the remainder would be invested in Local Improvements, has received Lord Glenelg's careful attention. His Lordship directs me to state that the objections to the adoption of that proposal appear to him insuperable. He conceives that His Majesty's Government could not enter into such an arrangement with a Society of gentlemen, possessing no Corporate Character, however undoubted may be their claims to respect and confidence as individuals. In the modern history of Colonization, no incorporated Body has ever received a grant, or has been permitted to make a purchase at all approaching in magnitude to that which it is the desire of yourself and associates to effect. To place a Territory so extensive under any other management than that of the responsible Officers of the Crown would in Lord Glenelg's opinion be to create an unconstitutional power, which, if not subversive of the Authority of the Local Government, would unavoidably fetter its movements and impair its influence even when most essential to the Public welfare. Further, His Lordship has no ground on which he could be justified in entering into a contract of such magnitude. He has not before him any evidence of the value of the land, which it is proposed to purchase, and thinks it indispensable not to act on such a subject, except with the advantage of the previous advice of the Governor of the Colony.

Proposal for purchase of land by association.

Objections to proposed purchase.

For these reasons Lord Glenelg must adhere to the decision announced to you in my letter of the 30th Ult., of directing General Bourke to put up the land at Port Philip for sale, at such a reduced upset price as, upon a full consideration of the state of the Infant Settlement, he may think reasonable. His Lordship will however instruct the Governor to have a careful and just regard to the various circumstances stated in your letter, and to make every arrangement, which may appear to him to be reasonable, for protecting the fair claims of the persons who have already resorted to Port Philip to a priority in the purchase, on moderate and easy terms, of any lands which they may have already occupied, or on which they may have actually effected any improvements.

Land at Port Phillip to be sold by auction.

Priority of purchase for first settlers.

I have, &c.,
G. GREY.

SIR RICHARD BOURKE TO LORD GLENELG.
(Despatch No. 45, per ship Brothers.)

My Lord, Government House, 13 April, 1836.

The despatches,* which I have had the honor to address to Your Lordship on the subject of a New Act of Parliament for the Government of this Colony, contain such copious information on the state of its affairs and the nature of the measure, which it is desirable to enact in the British Parliament, as to render any further communication on this head almost superfluous.

Former despatches re new bill for government of colony.

* Note 111.

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Transmission
of petitions.

It is, however, proper to take this opportunity of forwarding for Your Lordship's perusal printed copies of Petitions to His Majesty and the House of Commons, which have lately been prepared here; those marked A at a private reunion in the House of Mr. Jones a Member of Council; that marked B adopted at a public meeting of the Inhabitants of the Colony, called by public advertisement and held at Sydney.

Misstatements
re passing of
jury act.

These documents speak for themselves; and, the Petition of the Public Meeting being in reply to those got up at the House of Mr. Jones, it is unnecessary for me to make any lengthened comments on either, More especially as the despatches, to which I have referred, contain my opinions upon the principal matters adverted to. I have, however, to observe that the Petitions marked A having misstated the fact as to the sentiments of those who introduced the Colonial Act for the institution of Juries composed of the Civil Inhabitants, I thought it proper to enquire of the Judges and Crown Lawyers whether the verdicts of Civil Juries in N. S. Wales had or had not answered the ends of Justice. I have the honor to enclose copies of the opinions of all excepting that of Mr. Justice Burton, which has not yet been received. Your Lordship will be gratified to find how well the Civil Juries have fulfilled the objects of their appointment, and how unnecessary it is any longer to continue the use of Military Juries.

Opinions re
civil juries.

Reference to
address of
W. W. Burton
to jury.

Reference has been made in one of the Petitions marked A to the address* delivered by Mr. Justice Burton to a Petit Jury, upon which I found it necessary to offer some observations in my Despatch of the 18 Decr. last, No. 119. Those are perhaps sufficient for removing any suspicion that might otherwise be entertained, unfavorable to the administration of the Criminal Law under this Government; but, on the address being again brought forward in so prominent a shape, I became desirous of furnishing your Lordship with the opinions of the other two Judges upon the matter it contains, and desired a letter to be written to them, copies of which and of their answers are transmitted herewith.

I have, &c.,

RICHD. BOURKE.

[Enclosure marked A 1.]

Petition from
members of
council and
others to H.M.
the King.

THE Petition of the undersigned Members of Council, Magistrates, Clergy, Landholders, Merchants, and other Free Inhabitants of New South Wales.

To the King's most Excellent Majesty.

Most Humbly Sheweth,

That your Petitioners, being deeply concerned in whatever affects the welfare of this remote portion of your Majesty's Dominions, feel it to be their duty, on the occasion of the expiration

of the existing Act of Parliament, and the enactment of a new law for the government of New South Wales, with all humility to bring under Your Majesty's consideration some of the chief evils and difficulties they are at present exposed to, and which, unless averted by the timely interposition of your Royal authority and the wisdom of the National Councils, your Petitioners are apprehensive will seriously retard the advancement of the Colony and endanger its best interests.

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Your Petitioners beg most humbly to submit to Your Majesty that, notwithstanding the Colony exhibits the marks of Agricultural, Commercial and Financial prosperity, to an extraordinary and unexampled degree, this flourishing condition of its affairs is unhappily counterbalanced by a lamentable depravity of manners, and by the fearful prevalence of crime, arising amongst other causes from the increased and increasing difficulty, as the towns become more populous and the community extends over a wider surface, of keeping up an effective system of Police for the prevention or punishment of crime, and the consequent relaxation of discipline amongst the convict population; from the inadequacy of the means of religious and moral instruction; and more than all from the continual influx of transported criminals, without a sufficient number of free emigrants of virtuous and industrious habits to check the contaminating influence, and infuse a better tone into society.

Alleged prevalence of crime and its causes.

That your Petitioners have observed, with unfeigned sorrow, the proposed application of a large proportion of the funds arising from the sale of Crown Lands to other purposes than the encouragement of Emigration, notwithstanding the faith of Government was virtually pledged that the revenue arising from this source should be exclusively devoted to that important object; and your Petitioners would, with great deference, submit to Your Majesty that the expenditure of these funds in the introduction into the Colony of industrious and well-conducted families of the labouring classes presents the most obvious and powerful means of rescuing the Colony from its present state of moral debasement.

Appropriation of land revenues to other purposes than immigration.

That, by a recent judgment* of the Supreme Court of Van Dieman's Land, it has been determined that Your Majesty's Royal Prerogative is insufficient, unless sanctioned by the concurrence of Parliament, to delegate an authority to alienate the Crown Lands; and that consequently your Petitioners have no titles, valid in law, for the possession of their estates, whether held under the old tenure of quit-rent, or acquired by purchase under the existing Land Regulations.

Decision in Tasmania *re* validity of titles to land.

That doubts are also entertained, as to how far the Marriage Laws apply to the Colony, a question on which your Petitioners feel much anxiety as affecting the inheritance of property and the welfare of their children.

Doubts *re* marriage laws.

That the Judges of the Supreme Court do not hold office upon the same footing as in other parts of Your Majesty's Dominions, but are liable to be dismissed at pleasure without enquiry; and that the Chief Justice exercises in his own person both legislative and judicial authority, departures from established constitutional principles, for which your Petitioners most humbly submit that there does not appear to be any urgent necessity.

Tenure of office by judges.

Legislative and judicial functions of chief justice.

That the power to appoint Justices of the Peace, and to dismiss them at pleasure, is at present vested in the Government of the Colony; and that it would be attended with obviously beneficial

Power of governor to appoint justices.

* Note 112.

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effects, as your Petitioners humbly conceive, and with all deference submit to Your Majesty, were the exercise in the Colony of this important branch of the Royal Prerogative to be in some degree modified by requiring the approval of the Executive Council in all cases, whether of appointment to or dismissal from the Magistracy.

Alleged want
of system in
control of
convicts.

That hitherto the Government of the Colony and more especially its Police Establishments, and the measures for the regulation and discipline of the Convicts, appear to your Petitioners to have proceeded upon no consistent plan or definite rule of action; but to have varied from time to time according to the different views of each successive Governor.

Objections to
constitution
of legislative
council ;

That the Legislative Council, as at present constituted, is in a great measure inoperative from a majority of its members being Government officers, from its debates not being open to the public, from the members not having power to originate laws, and from the presence of the Governor as President, which your Petitioners would humbly submit tends to obstruct the free expression of opinion.

and to colonial
jury law.

That, by the provisions of the Colonial Jury Law, individuals having undergone sentence of transportation for their crimes and other ignominious punishments, as well as persons of bad repute and low standing in society, have been placed as Jurors upon the same footing with Magistrates and men of unblemished reputation. a measure which, your Petitioners are informed, was attempted merely as an experiment, and the failure of which, they have reason to believe, is now universally admitted. If they could contemplate the possibility of such a law being not only continued, but extended upon the same principles and rendered imperative in the formation of all Juries, both Civil and Criminal, as well as in the exercise of the other important functions of a Representative Government, their minds would be harrassed and borne down by the most gloomy forebodings.

Doubts *re*
opportune
time for
introduction
of reforms.

Fully appreciating, as they ever must, those institutions and privileges, which are the soul and essence of the Government of England, your Petitioners cannot forget that in England they are based upon the sure foundation of religion and morality. To attempt to carry them into operation, by means at variance with these principles, appears to your Petitioners to be anomalous and contradictory, and must, they apprehend, be productive of the most dangerous and lamentable consequences. Greatly, therefore, as they desire to be placed upon the same footing as their fellow-subjects, they would humbly submit that it is still questionable, whether the Colony is prepared to enjoy the free institutions of Great Britain; many experienced persons being of opinion that that much-wished-for period has not yet arrived, whilst those, who hold an opposite opinion, have proposed no satisfactory basis for the Elective and Representative franchises.

Your Petitioners would fain receive those inestimable boons from Your Majesty and from Parliament in the stainless lustre of their constitutional purity, and transmit them in that purity to their children; so that this distant land of their adoption may be rendered worthy of the parent state, and become the means, under the blessing of Divine Providence, of spreading far and wide the laws, the liberties, the arts, the language, and, above all, the moral and religious character of a British community.

Your Petitioners are sensible that upon the measures, that may be now adopted for the Government of the Colony, depend their own best interests, as well as those of their children. Property, life, reputation, moral and political well-being, whatever in short should be dear to men who have been taught to distinguish a rational and well-founded freedom from the disorganizing doctrines, which, under the name of liberty, would subvert the land-marks of social order, and, confounding all just distinctions, sap the foundations of society: all these are at stake.

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Problems
of reform.

Upon such a subject it is impossible that your Petitioners should not be actuated by feelings of the deepest anxiety. Your Majesty, in your paternal benevolence, will pardon the expression of these feelings; and, in laying their sentiments at the foot of the Throne, your Petitioners already perceive their solicitude give way to happier anticipations.

Your Petitioners most earnestly entreat that, in legislating for the future Government of New South Wales, Your Majesty, with the aid of Parliament, will institute such an enquiry into the present state and condition of the Colony, in relation to its eligibility as a place for the transportation of criminals and for carrying into effect an efficient system of secondary punishment; its resources and capabilities as a free settlement, together with the most effectual means, by Emigration or otherwise, of raising its moral character; and to what extent or under what modifications it may be wise and expedient to confer upon the community the free institutions of Great Britain; as (setting aside crude and dangerous innovations) may ensure the adoption of maturely considered and well devised measures; relieving your Petitioners, not only from the injurious effects of those evils and difficulties from which they are now suffering but from all cause of anxiety on the subject, and enabling them to devote their undivided energies to the advancement of this important dependency of the Empire.

Request for
inquiry *re* state
of colony prior
to legislation.

And your Majesty's Petitioners, as in duty bound, will ever pray.

[Enclosure marked A 2.]

THE humble Petition of the Undersigned Members of Council, Magistrates, Clergy, Landholders, Merchants, and other Free Inhabitants of New South Wales.

Petition from
members of
council and
others to house
of commons.

To the Honorable the Commons of Great Britain, in Parliament assembled;

Respectfully Sheweth,

That, although the Colony of New South Wales, as regards its Agriculture, Commerce and Revenue, presents an aspect of extraordinary and unexampled prosperity, yet, apprehending the best interests of this community to be threatened with serious danger which a timely enquiry may avert, your Petitioners feel it to be their duty, on the occasion of the expiration of the existing Act of Parliament and the enactment of a new Law for the Government of the Colony, humbly to submit, for the consideration of your Honorable House, a statement of the principal evils they are at present exposed to, and the grounds of their apprehensions for the future.

Reasons for
petition.

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Alleged increase
of crime.

Your Petitioners, would, in the first place, entreat the attention of your Honorable House to the fearful increase of crime that has of late years taken place in this Colony; the particulars of which are fully set forth, as well as several of the causes that have led to so lamentable a state of things, in a Charge* delivered by the Honorable Mr. Justice Burton to the Jury at the close of the Sessions of the Supreme Court for the year 1835, a copy of which is hereunto appended, together with other official documents relating to the subject. These, your Petitioners conceive, afford full proof of the alarming increase and extent of crime in the Colony, and clearly establish the necessity for some change in a system that produces such results.

Objections to
colonial jury
law.

Your Petitioners would, in the next place, beg to advert to the existing Colonial Law for the regulation of Juries in the Supreme Court and in the Courts of Quarter Sessions; by the provisions of which law, individuals, who have undergone sentence of transportation and other ignominious punishments, as well as persons of bad repute and low standing in society, have been placed upon a footing with Magistrates and Colonists of the highest respectability. This your Petitioners conceive to be repugnant to the spirit of the Law of England, as well as at variance with its practice; and, if not expressly forbidden by that law, they would humbly submit that it is merely because in a moral and virtuous society, like that of Great Britain, there is no necessity for such a prohibition; whereas in this community, which is unhappily so differently constituted, additional precautions are, in the opinion of your Petitioners, indispensably necessary to guard the administration of justice from sinister and contaminating influence.

That, if persons, who have undergone punishment for their crimes, and of bad repute, be entitled to sit as Jurors, the same reasoning, carried a step farther, would render them eligible as Judges, a proposition revolting to every right feeling, and too monstrous to be for a moment entertained.

Your Petitioners are aware that one of the principal objects, proposed to be attained by the New South Wales Jury Law, was to elevate the tone of public feeling, and to holding out to the convict an inducement to reform; but they respectfully submit that, even in this point of view, the effect of the measure is quite the reverse; and that its unavoidable tendency is to degrade the respectable portion of the community, and produce a general debasement throughout the Colony.

That the law, in its present shape, was passed through the Legislative Council in opposition to the votes and conscientious opinions of the most experienced and independent members, and, as your Petitioners are informed, was intended merely as an experiment, the failure of which they have reason to believe is now fully admitted by the supporters of the measure.

That one of the obvious and natural effects of this law is to encourage crime by the facility it affords to the guilty to devise plans for ensuring acquittal; whilst its operation, on the other hand, as regards innocent persons might be such as your Petitioners tremble even to think of, were its pernicious tendency not restrained by the right which is still left in criminal cases to the party upon trial to demand a Jury of military officers. And your

* Note 62.

Petitioners would humbly submit that, if the law be continued upon the same principle as at present, and extended to all cases both criminal and civil, it will necessarily have the effect of deterring men of character from investing capital or becoming settlers in the Colony, and prove a manifest injustice to the emigrant and the native-born inhabitants, and to all persons of respectability of whatever class; who will thus be virtually deprived of the right of trial by their peers in cases involving property, reputation, liberty and life; and that too in a community in which perjury is of every-day occurrence.

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Expected results of extension of principles of jury law.

Your Petitioners would, in the next place, beg leave to bring under the notice of your Honorable House the important subject of the disposal of the Crown Lands, which have become a fruitful source of Revenue, and the funds arising from which, if judiciously laid out in the introduction into the Colony of industrious and well-conducted families of the labouring classes, would in the opinion of your Petitioners be the most obvious and powerful means of raising the Colony from its present depth of moral debasement. Your Petitioners, impressed with this belief, have observed with the deepest concern and affliction that, notwithstanding the virtual promise of His Majesty's Secretary of State for the Colonies, that these funds should be devoted solely to the encouragement of emigration, a large proportion of them has been proposed to be applied to other local purposes, a measure so injurious to the best interests of this community, that your Petitioners feel themselves bound to appeal against it by every means in their power.

Protest re appropriation of land revenues to other purposes than immigration.

Relying with the most perfect confidence in the benevolent disposition of His Majesty and in the wisdom and justice of your Honorable House, your Petitioners feel assured that the subject requires only to be brought under the consideration of their Sovereign and the Parliament to secure the adoption of measures, by which these funds may be restored in their full amount, and applied in the most advantageous manner to the accomplishment of the important ends for which they appear to have been providentially destined; namely, the reformation of society in this Colony, and the infusion into it of that just moral feeling which is the only secure foundation of free institutions.

Your Petitioners would entreat your Honorable House to bear in mind that, from the facility of acquiring wealth in New South Wales by dishonest and disreputable practices, the possession of property affords but slight proof of good character; a state of things which your Petitioners are of opinion most necessarily prevail, so long as transportation is continued, unless an entire change in the management and discipline of the convicts can be effected, which, under the present circumstances of the Colony, they conceive to be hopeless and almost impracticable.

Objections to property qualifications for franchises.

Your Petitioners would therefore humbly submit that, if it be proposed to confer free institutions upon this community, property ought not to form the sole standard for the regulation of the elective and representative franchises.

Your Petitioners would further submit, for the consideration of your Honorable House, that, if the convict upon the expiration of his term of transportation be admitted to the exercise of all the rights and privileges of citizenship in this Colony, transportation, as regards the mother-country, will no longer operate as a punishment

Objections to full civil rights for expirées.

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but as an incitement to the commission of crime; while the consequences of such a system, as regards the Colony, would be disastrous in the extreme.

Your Petitioners have dwelt upon these subjects not only as vitally affecting the present and future welfare of this Colony, but as intimately connected with the whole system of *secondary punishment*, and involving considerations of the utmost importance to the empire at large; and, in submitting their views to the high feeling and enlightened judgment of a British Senate, they feel assured that the result will be such, as at once to protect the interests of this remote dependency, and to advance the national prosperity.

That your Petitioners would with all deference submit that, in a community so peculiarly constituted as that of New South Wales, the administration of justice, and more especially in criminal matters, should be prompt, certain and energetic; and that, notwithstanding considerable improvement has of late been effected in the mode of conducting the business of the Supreme Court, it still admits of important reforms, which would tend greatly to the public advantage.

That the Judges of the Supreme Court are liable to be dismissed at pleasure, instead of retaining office during good conduct; and that, by the appointment of the Chief Justice to a seat in the Legislative Council, the exercise of judicial and legislative authority is united in one person, departures from established constitutional principles for which your Petitioners are not aware that any good reason can be assigned.

That the Legislative Council, as at present constituted, is inadequate to the exigencies of the Colony, and has no hold upon the public confidence; as well from the number of its members being too limited, and the majority of these members consisting of civil officers of the Colonial Government, as from its debates not being open to the public; and the right to originate measures being confined to the Governor, as President of the Council; a circumstance in itself sufficient, as your Petitioners humbly conceive, materially to affect that free expression of opinion, which is so essential to a Legislative body.

That, by a recent judgment* of the Supreme Court of Van Dieman's Land, considerable doubt has been thrown upon the validity of Titles to Landed Property in either Colony; it having been decided by that Court that His Majesty cannot, without the concurrence of Parliament, delegate a power to alienate the Crown Lands; and that the Governors of the Colonies have consequently never possessed legal authority to execute Grants, whether under the old tenure of quit-rent or under the present regulations for the sale of the Crown Lands.

That doubts are also entertained whether the Marriage Laws, or what portion of them, extend to this Colony, a subject regarding which your Petitioners feel deep anxiety, in as much as it seriously affects the rights of inheritance and the interests of their children.

Your Petitioners most earnestly entreat that, in deliberating upon the Bill for the future Government of the Colony which they are informed is about to be submitted to Parliament by His Majesty's Ministers, your Honorable House will be pleased to institute a full

Reforms required in administration of justice.

Power of dismissal of judges.

Legislative and judicial functions of chief justice.

Objections to constitution of legislative council.

Decision in Tasmania *re* validity of titles to land.

Doubts *re* marriage laws.

Request for inquiry prior to legislation.

* Note 112.

investigation into its present circumstances and condition, and more especially to take into consideration the following important subjects, viz. :—

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The efficiency of transportation to New South Wales as a secondary punishment, whether it shall be continued, and under what alterations of the present system, or, if discontinued, in what manner it may be made gradually to cease, so as to produce the greatest degree of good to the parent-country with the least detriment to this Colony, the interests of which might sustain much injury from too sudden a change.

Inquiry requested re transportation of convicts ;

The capabilities of the Colony as a Free Settlement, and the most effectual means of developing its resources and elevating the character of its inhabitants by the encouragement of Emigration, and by the adoption of some well-devised scheme of religious and moral instruction.

development of colony ;

How far it may be wise and expedient to extend the Legislative Council of the Colony, and to effect such changes in its constitution as to render it efficient for all present purposes, and a step towards the attainment of a Representative Legislature.

legislative council ;

Whether, under the peculiar circumstances of this Colony, a conditional pardon or the completion of the term of transportation is to be held equivalent to the King's pardon in removing legal disabilities, and what should be the qualifications respectively for Grand and Petty Jurors.

status of emancipists and expiress ;

The settlement of Titles to Landed Property acquired from the Crown, and of the Marriage Laws retrospectively as well as for the future, and the most certain effectual mode of determining what Statutes shall and what Statutes shall not be in force in this Colony.

and titles to land and marriage laws.

Your Petitioners, in making this appeal to your Honorable House, repose the firmest reliance on its wisdom and justice, and feel confident that whatever measures may be determined upon by Parliament, and sanctioned by the approval of His Majesty, will be such as to secure the best interests of the Colony ; strengthening those ties which bind it to the parent state, and rendering it in every way worthy of its British origin.

And your Petitioners, as in duty bound, will ever pray.

[Enclosure marked B.]

THE Petition of the Free Inhabitants of New South Wales, at a Public Meeting,* duly convened at Sydney, in the said Colony, on Tuesday, the 12th day of April, 1836, to take into consideration a Printed Petition to His Majesty and another to your Honorable House, now in circulation for signature, and to adopt such measures of approval or disapproval of the subject matter of those Petitions as the public interests and safety may require.

Petition from free inhabitants in reply to petitions from members of council and others.

To the Honorable the Commons of the United Kingdom of Great Britain and Ireland, in Parliament assembled.

Humbly sheweth,

That your Petitioners heartily concur in so much of the said two Printed Petitions, copies of which are hereunto appended, as pray that the whole proceeds, derived and to be derived from the sale of Crown Lands, may be applied in conformity with the original pledge of the Home Government, exclusively to purposes

Approval of certain proposals.

* Note 113.

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Constitution
of legislative
council.

Necessity for
governor, chief
justice and
civil officers
as members.

Proposals for
representative
legislature on
liberal basis.

Denial of
alleged increase
of crime.

of Immigration; that the Judges of the Supreme Court may henceforth hold office during good behaviour; and that whatever defects may exist in titles to land, whether acquired from the Crown by grant or purchase, may be speedily remedied.

That your Petitioners also fully admit the truth of the allegation in the Petition to the House of Commons, "That the Legislative Council, as at present constituted, is inadequate to the exigencies of the Colony, and has no hold upon the public confidence." But your Petitioners are of opinion that the Legislative Council, which is therein proposed as a substitute for the present Legislative Council, would from its obvious defects and mischievous tendencies prove still more inadequate, unpopular and odious, inasmuch as the right of the Governor alone to originate laws on his high and single responsibility, his presence and that of the Chief Justice to aid with his eminent knowledge and talents in the deliberations of the Council, and the infusion into it of a number of public officers, are the only safeguards which the Colonists possess (constituted as the Council now is, and as these Petitions still propose it to be, wholly of Non-elective Members) against a factious oligarchy, who already hold it in equipoise, and trusting to their secret influence in the Mother Country hope to increase the number, and thus to acquire an undisputed preponderance, which would have the effect of placing virtually at this disposal the whole power and revenue of the Colony.

That your Petitioners feel so strongly on this point that they would infinitely prefer a recurrence to the old despotic form of Government, under which the Governor for the time-being combined the Legislative as well as Executive authority in his own person, either to the present Legislative Council or to the still more numerous and irresponsible Non-elective Council which is thus sought to be introduced in its stead.

That the only safe and effectual remedy for the admitted defects of the present Legislative Council consists in the establishment of a Representative Legislature upon a wide and liberal basis; and that the wishes and wants of a vast majority of the Free Colonists on this point, as well as on other matters affecting their chief interests, are fully set forth in their last Petition* to your Honorable House, presented by Henry Lytton Bulwer, Esquire.

That the prayer of your Petitioners, therein contained for an Elective Assembly, derives irresistible force from the present state of our Revenue, Exports and Population, it appearing from official returns that our Revenue for the past year (1835) was £273,744 13s. 11½d.; and that the amount of our exports for the same period was £630,831, while our population, taking the average rate of increase between the Census of November, 1828, and September, 1833, as the basis of computation, may be estimated at 75,000 souls.

That the two draft bills, lately transmitted to the said Henry Lytton Bulwer, Esq., for his guidance and information by the Patriotic Association, have the full concurrence of your Petitioners, and embody such a system of Government as is indispensable to the future welfare and prosperity of the Colony.

That the assertion, contained in the said Printed Petition to your Honorable House, "Of the alarming increase of crime that has lately taken place in the Colony" is not only not borne out by any statistical facts or details set forth in that petition, but is wholly at variance with those contained in the charge of Mr. Justice

* Note 114.

Burton, which is relied on as authority for this assertion, for it appears from that charge, that

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In 1833, the number of capital convictions before the Supreme Court was	135
In 1834, the number was	148
In 1835, the number was	116
While it appears from the same charge that the increase during the same period to a population consisting in September, 1833, of—	
Free males above 12 years of age	17,578
Convict males	21,845
	<hr/>
Total	39,423
Was free adults	900
Male Convicts	7,357
	<hr/>
Total	8,257

Statistics
re capital
convictions in
supreme court.

Or in round numbers considerably more than one fifth of the male population, besides a large increase of women and children belonging to both classes.

Hence, it is obvious, from the very charge of Mr. Justice Burton, which is thus solely relied upon to show "the alarming increase of crime," that, although there was a slight increase in the actual extent of crime between the years 1833 and 1834, there has not only been a great positive decrease in such actual extent in the whole of the three years of 1833, 1834 and 1835, above referred to, instead of "the fearful increase" thus asserted to have taken place, but that there has also been in the short same period a very great relative decrease of crime in comparison with the increase of population.

Decrease in
crime in
proportion to
population.

That, in the opinion of your petitioners, the various allegations in these Printed Petitions contained respecting the general want of discipline among the convicts, and the insufficiency of transportation as a mode of secondary punishment, are grossly exaggerated; and that the life of a convict in this Colony, if truly depicted, certainly holds out to the lower classes of the parent country no temptation to the commission of crime; the prevalence of which there, your petitioners attribute to the severe pressure of the times, to the overcrowded state of the population, and to the want of due employment and remuneration to enable those to live honestly, who are willing to work.

Exaggerated
statements
re convict
system.

That if the statements, contained in the aforesaid Printed Petitions with respect to the operation of the Common Jury System in the Criminal Courts, were as true as your petitioners believe them to be false, and if it were further true that the system was "intended merely as an experiment, the failure of which is now fully admitted by the supporters of the measure," it is obviously unnecessary to petition His Majesty or your Honorable House on the subject; in as much as the Legislative Council, which passed the present Jury Law, in opposition as it is alleged to the votes and conscientious opinions of the most experienced and independent members, will, on the expiration of the present Act, have amended and remodelled it so as to correct its alleged defects, long before these Petitions can have reached their respective destinations.

Denial of
statements
re jury law.

That your Petitioners, however, consider that no necessity has been or can be shewn to justify the exclusion from the rights and

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Grounds for
exclusion from
privileges of
citizenship.

privileges of citizenship of the Freed Colonists, upon any other grounds than those of conviction of crime committed in this Colony, and bad repute; grounds of exclusion which the Local Legislature has already adopted in the construction of Juries, and will doubtless adopt from analogous reasons in the regulation of the elective and representative franchises, whenever they shall be extended to the Colony.

That to adopt any other principles of exclusion would be at once to extinguish the most powerful stimulus to reformation, and to divide the Colonists into castes, thereby sowing the seeds of present animosities, hereditary feuds, and perpetual dissensions.

Support of
governor to
appoint justices.

That your Petitioners are of opinion that, so far "from its being attended with obviously beneficial effects," as is alleged in the said Printed Petition to His Majesty, "That the power to appoint Justices of the Peace and dismiss them at pleasure should be vested in the Governor, with the approval of the Executive Council instead of in the Governor himself" as at present, it would be obviously for the benefit of the Colony, if no Executive Council existed, and if the whole weight and responsibility of all the measures of Government were under the existing state of things cast on the Governor alone. That, in the omission of the names of some Magistrates in the late Commission of the Peace, your Petitioners, so far as they can surmise the grounds of their dismissal, see no reason why this branch of Royal Prerogative should not continue to be exercised as heretofore on the Governor's sole authority. That to associate others with him in this duty would unquestionably be no benefit to parties who might be really aggrieved, but would on the contrary, by dividing the accountability of the Act, weaken their chance of redress whenever they might be entitled to any.

Support of
policy of
Sir R. Bourke.

That your Petitioners in allusion to this and other insidious attacks in the aforesaid Printed Petitions, levelled against His Excellency Sir Richard Bourke, feel it their bounden duty to record their entire and cordial approval of the wise, disinterested, liberal, just, paternal and constitutional policy, which has marked his Government; and further to record the sincere expression of their hope that the day may be yet far distant, when it shall seem meet to His Majesty, or desirable to himself, that he should give place to a successor.

Objects of
promoters of
petitions from
members of
council and
others.

That, in the opinion of your Petitioners, the aforesaid Printed Petitions have been got up by a small illiberal party, who have long displayed their unbending hostility to the best interests of the Colony, for the purpose of inducing His Majesty's Ministers and Your Honorable House still further to delay the granting of those Free Institutions from which we have already been too long debarred, under the hope that something may in the meanwhile occur to further their views; that your Petitioners are borne out in this conclusion by the circumstance that the several subjects thereby propounded as proper for inquiry, previous to further legislation, have not any connection with the fitness of the Colony for the reception of these rights, which it is endeavouring to obtain, or consist of undisputed facts conceded in these very Petitions, or of mere points of law upon which it is only necessary to consult the Crown Lawyers; or lastly of speculative questions of secondary importance, all of which, if His Majesty's Ministers are not already sufficiently informed upon them, and it be deemed expedient,

contrary to the belief of your Petitioners, that some of them should be resubmitted, and others of them submitted to British Legislation, may be as well enquired into after the concession of a Representative Legislature as before.

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Your Petitioners therefore humbly pray that your Honorable House, on the expiration of the present Act providing for the Government of this Colony, will be pleased to address His Majesty to grant your Petitioners a Representative Assembly upon a wide and liberal basis; or that your Honorable House will be pleased to introduce, instead of the present Legislative Council, a Legislative Council and Assembly, consisting of not fewer than fifty Members, three-fourths of whom to be elected by your Petitioners, and the remaining fourth to be the nominees of His Majesty. And your Petitioners, as in duty bound, shall ever pray.

Request for representative legislature on liberal basis.

JOHN JAMISON, Chairman.

[Additional enclosures.]

[The opinions relating to civil juries were printed in the "Votes and Proceedings" of the legislative council.]

LORD GLENELG TO SIR RICHARD BOURKE.

(A circular despatch per ship Moffatt.)

Sir, Downing Street, 15th April, 1836. 15 April.

I have the honor to transmit to you herewith the Copy of a letter which has been addressed to this Department by direction of Viscount Palmerston, enclosing a communication from the Austrian Chargé d'Affaires in this Country on the subject of a Convention, which it is contemplated to establish between Great Britain and Austria for the removal of any discriminating imposts, which may at present be levied in the United Kingdom or in the Austrian Dominions on the succession to, or transfer of personal property by the Subjects of either power, within the Dominions of the other. You will observe that it is proposed to extend the operation of this Convention to his Majesty's Colonial Possessions; but, before any conclusive arrangements are made for this purpose, I am desirous to learn whether in the Colony under your Government there exist any objections to such a Convention, arising either from express legal Enactments, from local usages, or from considerations of political or Commercial expediency. I have to request that you will take the Subject into your early consideration, and that, with regard to the questions of law connected with the proposed Convention, you will call on the Law Officers of the Crown in the Colony under your Government to furnish you with a Report for my information.

Convention proposed re property of Austrian subjects.

Report required re proposed convention.

I have, &c.,
GLENELG.

1836.
15 April.

[Enclosure.]

MR. W. FOX STRANGWAYS TO SIR GEORGE GREY.

Sir,

Foreign Office, 18th March, 1836.

I am directed by Viscount Palmerston to transmit to you the Copy of a Note, which has been received from Monsieur de Hummelauer, the Austrian Chargé d'Affaires, inclosing the Draft of a Declaration, which it is proposed should be signed on the part of the Governments of Great Britain and Austria for the removal of any discriminating Duties, which may at present be levied in the United Kingdom or in the Austrian Dominions upon the Succession to, or transfer of personal Property by the Subjects of either Power within the Dominions of the other; and, with reference to the correspondence which passed between this Department and the Colonial Office in the year 1833 upon this subject, I am to request that you will move Lord Glenelg to acquaint Lord Palmerston whether he sees any objection to the extension of the arrangement in question to His Majesty's Possessions and Colonies abroad, as proposed by the Austrian Chargé d'Affaires.

Transmission
of draft of
convention.

I am, &c.,

W. FOX STRANGWAYS.

[Sub-enclosure No. 1.]

MONSIEUR DE HUMMELAUER TO VISCOUNT PALMERSTON.

Londres, 19 Mars, 1836.

LE SOUSSIGNÉ, etca., n'a pas manqué en son tems de porter à la connoissance de son Cabinet le contenu de la note que S.E. Monsieur le Vicomte Palmerston, etca., lui a fait l'honneur de lui adresser en date due 9 Juillet, 1834, ainsi que le projet de déclaration relativement à l'abolissement du droit de détraction des heritages et autres bien.

Principles
involved in
proposed
convention.

Cette communication ayant été soumise à la considération des autorités compétentes, le Soussigné vient d'être autorisé de communiquer à S.E. le projet de déclaration cijoint, qui ne differe du projet de déclaration du Gouvt. Britannique que par des nuances peu importantes en elles mêmes, mais sugerées par le besoin de mettre la teneur de la dite déclaration en harmonie parfaite avec les lois et réglemens existant dan les Etats Autrichiens.

S.E. voudra bien observer qu'il y est dit que l'arrangement dont il s'agit de convenir restera en force et vigueur tant que les sujets Autrichiens jouiront des mêmes avantages dan les Etats de S.M. Britannique, les lois de l'Autriche voulant que toute stipulation de cette nature soit établie sur la base expresse d'une parfaite reciprocité.

Des sujets Autrichiens pouvant être dans le cas de faire les héritages à Malte, Gibraltar, ou dans les Colonies Britanniques, le Gouvt. Impérial en comprenant dans l'arrangement en question la totalité des Etats Autrichiens, se flatte que le Gouvt. Britanique consentera également de son côté à étendre les avantages qui doivent en résulter pour les sujets Autrichiens, à toutes les possessions et Colonies de la Grande Bretagne.

Dans le cas ou le présent projet de declaration rencontrat l'approbation du Gouvt. de S.M.B., Son Altesse M. le Prince de

Metternich, etc., s'empreserait de transmettre au Soussigné un acte signé par lui pour l'échanger contre un acte analogue, signé par S.E. Monsieur le Principal Secrétaire d'Etat.

1836.
15 April.

Le Soussigné saisit cette occasion pour renouveler à S.E. M. le Vicomte, etc., l'assurance, &c.,

(signé),

HUMMELAUER.

[Sub-enclosure No. 2.]

Projet.

LE SOUSSIGNÉ Chancelier de Cour et d'Etat de S.M. l'Empereur d'Autriche, Roi de Hongrie, Bohême, etc., déclare par les présentes que les Sujets de S.M. Britannique auront pleine liberté d'exporter les propriétés qui leurs seraient échues soit par succession, soit par donation, ou autrement dans les Etats de l'Empereur d'Autriche sans payer dans leur qualité d'étranger d'autres droits au trésor de l'Etat que ceux aux quels les propres Sujets de S.M. Impériale et Royale Apostolique seraient soumis en pareil cas.

Draft of convention re property of Austrian subjects.

Cette déclaration sera échangée contre une pareille déclaration du Ministère de S.M. Britannique et restera en force et vigueur, tant que les Sujets Autrichiens jouiront des mêmes avantages dans les Etats et Colonies de Sa dite Majesté Britannique.

En foi de quoi, la présente a été signée par Nous Chancelier de Cour et d'Etat de S.M. l'Empereur d'Autriche et munie du sceau d'Office.

Fait à Vienne, &c., &c.

SIR RICHARD BOURKE TO LORD GLENELG.

(Despatch No. 46, per ship Brothers; acknowledged by Lord Glenelg, 3rd September, 1836.)

My Lord,

Government House, 15 April, 1836.

Referring to the Despatch of Lord Visct. Goderich of the 19 Sept., 1831, marked "Separate," in which His Lordship approves of the advance of £200 made by my Predecessor to Mrs. Baxter, widow of the late Mr. Baxter, who was Atty. General in this Colony, to enable her to remove with her family to England, which advance was made upon a Bill drawn by Mrs. Baxter on Sir James Gordon, R.N. of Chatham Dock-yard, I have the honor to inform your Lordship that, by a letter received from the Colonial Agent General Barnard, it appears Sir James Gordon has refused to honor the Bill, alleging that he had not given Mrs. Baxter any authority to draw it.

Bill drawn by widow of A. M. Baxter and not accepted by Sir J. Gordon.

I beg leave to transmit the Bill, lest your Lordship should have any orders to give to Mr. Barnard respecting it.

I have, &c.,

RICHD. BOURKE.

1836.
17 April.

LORD GLENELG TO SIR RICHARD BOURKE.
(Despatch No. 144, per ship Moffatt.)

Sir, Downing Street, 17 April, 1836.

Despatch
acknowledged.

I have received your Despatch No. 74 of the 7th August last, in which you submit a proposal for the erection, at the expense of the Colony, of a suitable Building for the reception of a Public Library and Museum in connection with the Sydney Botanical Garden at the estimated cost of £4,000.

Approval of
erection of
building for
library and
museum.

Having communicated upon the subject with the Lords Commissioners of the Treasury, I have to acquaint you that His Majesty's Government are prepared to accede to your recommendation; and I therefore authorise you to propose to the Legislative Council the appropriation of a sum of £4,000 for the erection of such a Building, in which the Society of the "Australian Subscription Library" should be permitted to occupy Rooms on the conditions which you have suggested.

I am, &c.,
GLENELG.

LORD GLENELG TO SIR RICHARD BOURKE.
(Despatch No. 145, per ship Moffatt.)

18 April.

Sir, Downing Street, 18th April, 1836.

Instructions
re land grant to
W. Raymond.

With reference to the Despatch, which was addressed to you by Lord Stanley on the 22d Novr., 1833, No. 57, on the subject of the Grant of Land made to Mr. Walter Raymond, I have now to acquaint you that I have been induced to extend the period, which was allowed to him for taking possession of his Land, to the 2d of March next, after which period the Land will of course be liable to resumption, if he should not have arrived in the Colony.

I am, &c.,
GLENELG.

LORD GLENELG TO SIR RICHARD BOURKE.
(Despatch No. 146, per ship Moffatt.)

20 April.

Sir, Downing Street, 20th April, 1836.

Despatch
acknowledged.

I have received your despatch of 2d of November last, No. 107, enclosing a Copy of a letter from Chief Justice Forbes, in which he states that circumstances have prevented him from taking advantage of the permission granted to him by my Predecessor of returning to this Country, but expresses a wish to be permitted to avail himself of the leave of absence at a future period, if his health should render it advisable; and I have to request that you will acquaint Mr. Forbes that I feel no hesitation in acceding to his application.

I have, &c.,
GLENELG.

Leave of
absence for
F. Forbes.

SIR RICHARD BOURKE TO LORD GLENELG.

(Despatch No. 47, per ship Governor Harcourt.)

1836.
20 April.

My Lord, Government House, 20 April, 1836.

Transmission
of letter of
protest from
civil officers
re commission
of peace.

Referring to my Despatch of the 1 March last, No. 30, with which I forwarded a Letter addressed to Your Lordship by certain Civil officers of this Government, who consider themselves aggrieved by the omission of their names in a Commission of the Peace lately issued by me, I have now the honor to transmit at their request another copy of the same Letter with autograph signatures only.

Having already entered fully into the merits of this complaint, I have only to observe in addition that the Copy now transmitted is without two of the names appended in the handwriting of the transcriber to the former one. I stated in the previous despatch my knowledge of the refusal by one of the assumed complainants to sign the document when presented to him, and made such observations as the insertion of his name appeared to call for. These are now strengthened by the absence of another signature, also inserted in the original, without if not against the desire of the Party.

I have, &c.,

[Enclosure.]

RICHD. BOURKE.

[A copy of this letter is not available.]

LORD GLENELG TO SIR RICHARD BOURKE.

(Despatch No. 147, per ship Moffatt.)

Sir, Downing Street, 21st April, 1836.

21 April.

With reference to my Dispatch No. 112 of the 26th of February last, I now transmit to you a Warrant, under the King's Sign Manual, appointing Mr. J. H. Plunkett, Attorney General of New South Wales. The Colonial Agent having been called upon to pay to the Chief Clerk of this Department the Fees chargeable on the Warrant of Appointment, amounting to Eleven Pounds 5s. 6d., you will take measures for obtaining from Mr. Plunkett repayment of the Sum.

Warrant
appointing
J. H. Plunkett
as attorney-
general.

I am, &c.,

GLENELG.

[Enclosure.]

[A copy of this warrant is not available.]

LORD GLENELG TO SIR RICHARD BOURKE.

(Despatch No. 148, per ship Moffatt.)

Sir, Downing Street, 22d April, 1836.

22 April.

I transmit to you, herewith, a copy of a letter which I have received from the Prussian Minister at this Court, enclosing an application from Dr. Lhotzky to be provided with a number of

Transmission
of application
from
F. Lhotzky.

1836.
22 April.

Assigned Convicts, and to be supplied with Carts, Bullocks, etc., from the Government Stores, to enable him to prosecute a journey into the Interior of the Colony with a view to collect specimens for the Royal Museum at Berlin.

Assistance to
be given to
F. Lhotzky.

It will of course be impossible to comply with Dr. Lhotzky's application; but I have informed the Baron Bulow that you would be requested to afford Dr. Lhotzky any facilities which it might be in your power to accord consistently with established Regulations.

I am, &c.,
GLENELG.

[Enclosure.]

BARON BULOW TO LORD GLENELG.

My Lord,

Bryanstone Square, 16 April, 1836.

Transmission
of letter from
F. Lhotzky.

Dr. Lhotzky, a German Naturalist residing at Sydney in Australia, being about to undertake another Journey into the Interior of that Country, where he wishes to make Collections for the Royal Museum at Berlin, has transmitted to me the accompanying letter addressed to H.B.M. Secretary of State for the Colonies with the request to forward it and to support the Petition therein contained.

Being however unable to judge whether circumstances may allow to comply with Mr. Lhotzky's wishes, I can only recommend them to your Lordship in so far as you consider them yourself admissible.

I have, &c.,
BULOW.

[Sub-enclosure.]

DR. LHOTZKY TO SECRETARY OF STATE.

Sir,

Sydney, 23 Octr., 1835.

Request for
assigned
convicts and
equipment.

The humbly undersigned, being willing to undertake another Expedition into the Interior of Australia, begs leave to request that an Order shall be sent to H.E. the Governor of N. S. Wales to provide him with the necessary number of assigned Convicts; and he would be also very thankful for any other facilities of Carts, Bullocks or Horses, he might receive out of the Govt. Stores or Herds.

I have, &c.,

F. LHOTZKY, M.D.,

F.R. Bot. S. Bavaria.

LORD GLENELG TO SIR RICHARD BOURKE.

(Despatch No. 149, per ship Moffatt.)

23 April.

Sir,

Downing Street, 23d April, 1836.

Despatch
acknowledged.

I have had under my consideration your despatch No. 95 of the 6 of Octr. last, transmitting a Minute of the Proceedings of the Executive Council respecting the application to the Australian Agricultural Company of the New Regulations for the assignment of Convicts.

When those Regulations were submitted by you for my consideration, no allusion was made to the manner in which it was proposed to apply them to the Company; and I was therefore left quite at a loss as to your sentiments upon that point.

1836.
23 April.

My attention was, however, soon called by the Directors of the Company in London to the inadequacy of their actual supply of convicts and to the necessity of their receiving a further assignment; and I was induced, after mature deliberation, to form the decision communicated to you in my despatch No. 104 of the 1st of February last. I have seen no reason to alter that decision, and can therefore only refer you to the instruction which communicated it to you.

Convicts to be assigned to A.A. company.

You will, I trust, consider as satisfactory the motives which lead me to direct an assignment of Convicts to the Company larger than the amount recommended by the Council.

I approve of the recommendation of the Council with regard to the Assignment of Convicts to the Company for their Colliery at Newcastle; and I need scarcely add that the arrangement, stated in my despatch of the 1st of February last, was quite unconnected with any which might be made for the supply of Convicts for working the Coal Mines.

I have, &c.,
GLENELG.

SIR RICHARD BOURKE TO LORD GLENELG.

(Despatch No. 48, per ship Governor Harcourt.)

My Lord, Government House, 25 April, 1836. 25 April.

Referring to the Despatches,* by which I have recommended the employment, as agents for selecting and bringing out Emigrants, of Naval Surgeons who have come to this Colony in charge of Convict Ships, I have the honor to state that I have furnished Thomas Galloway, Esqre., R.N., with instructions for selecting and bringing out Emigrants from the Southern Counties of England, which he has been directed to lay before Your Lordship for approval and final orders.

Nomination of T. Galloway as emigration agent.

I have, &c.,
RICHD. BOURKE.

LORD GLENELG TO SIR RICHARD BOURKE.

(Despatch No. 150, per ship Moffatt.)

Sir, Downing Street, 27th April, 1836. 27 April.

I have received your Despatch No. 97 of the 8th of October last, relative to the mode of printing the Convict Indents, which are circulated in the Colony for the information and

Despatch acknowledged.

* Note 115.

1836.
27 April.
Approval of
printing of
convict indents.

guidance of the Local Magistrates; and, having communicated on the subject with the Lords Commissioners of the Treasury, I have now to acquaint you that, under all the circumstances, His Majesty's Government do not object to sanction the arrangement which you have made for executing that Service.

I am, &c.,
GLENELG.

LORD GLENELG TO SIR RICHARD BOURKE.
(Despatch No. 151, per ship Moffatt.)

29 April.
Exemption of
land grant to
C. Sturt from
quit rent.

Sir, Downing Street, 29th April, 1836.

I have received your Despatch No. 100 of the 11th of October last, enclosing the Memorial of Captain Sturt, praying that the Land, which he has received for his Services, should be exempted from the payment of Quit Rent. At it appears to have been the general practice, in granting Lands to Individuals as a reward for meritorious Services, to make such Grants free of all Quit-rent, and as I further perceive that that principle was acted upon in the case of those Gentlemen who accompanied Captain Sturt in his Expeditions, I feel no hesitation in extending to him a like indulgence.

I am, &c.,
GLENELG.

SIR RICHARD BOURKE TO LORD GLENELG.
(Despatch No. 49, per ship Governor Harcourt.)

30 April.
Bounty to
settlers for
introduction of
immigrants.

My Lord, Government House, 30 April, 1836.

In my Despatch of the 14 October last, No. 102, with which I transmitted the Report of a Committee of the Legislative Council on the means of promoting useful Emigration to this Colony, I informed Your Lordship that I proposed offering Bounties in aid of the expence incurred by private Settlers introducing Emigrants of certain descriptions and ages.

Results
expected.

I accordingly issued the notice,* of which a Copy is transmitted herewith; and, judging from the manner in which the measure has been hitherto received and the applications sent in, I am inclined to think that, before the end of 1837 (the period to which the introduction of Emigrants upon these terms is limited), at least two thousand Emigrants including women and children will be introduced to the Colony under its provisions.

In further aid of Emigration to this Colony, I have revised a Notice* of my Predecessor dated the 26 August, 1831, allowing redemption of Quit Rent upon the introduction of Emigrants.

* Note 116.

As an inducement to the adoption of this course, by which the very troublesome operation of collecting Quit Rent may be avoided upon terms advantageous to the Colony, I have, with the advice of the Ex. Council, allowed rather a higher Bounty where it is taken by redemption of Quit Rent than by cash payments. A Copy of the revised notice* is transmitted herewith.

1836.
30 April.

Redemption of quit rent by introduction of immigrants.

I have, &c.,

RICHD. BOURKE.

SIR RICHARD BOURKE TO LORD GLENELG.

(Despatch No. 50, per ship Platina.)

Sir,

Government House, 1 May, 1836.

1 May.

I have the honor to transmit the Copy of a Letter addressed by Mr. Busby, the British Resident at New Zealand, to the Colonial Secretary of New South Wales, relating to the case of two Seamen belonging to the Whaler "Lady Amherst" left behind by the master contrary to Law.

Transmission of report from J. Busby.

Your Lordship will probably think it right to make known Mr. Busby's statement at Lloyds, for the information of the owners and others interested in the facts which he relates.

I have, &c.,

RICHD. BOURKE.

[Enclosure.]

[A copy of this letter, dated 17th March, 1836, will be found in a volume in series III.]

SIR RICHARD BOURKE TO LORD GLENELG.

(Despatch No. 52, per ship Platina.)

My Lord,

Government House, 5 May, 1836.

5 May.

The accompanying Petition to His Majesty from the Brothers of Captain John Dickenson, who is now at Port Macquarie in this Colony under sentence of transportation passed by a general court Martial, has been sent to me for transmission to Your Lordship.

Transmission of petition re J. Dickenson.

It will appear, from the Report of the acting P. Supt. of Convicts, endorsed on the Petition, that nothing is recorded to the prejudice of Captn. John Dickenson, since his arrival in New South Wales.

I have, &c.,

RICHD. BOURKE.

[Enclosure.]

[A copy of this petition is not available.]

* Note 116.

1836.
7 May.

LORD GLENELG TO SIR RICHARD BOURKE.

(Despatch No. 152, per ship *Duchess of Northumberland*; acknowledged by Sir Richard Bourke, 24th November, 1836.)

Sir, Downing Street, 7th May, 1836.

I transmit to you, herewith, a Copy of a letter which I have received from the Board of Treasury, enclosing a Copy of one from the Commissrs. of Audit, on the Accounts of the Colonial Treasurer of New South Wales for the years 1833 and 1834 and the first quarter of 1835; and I beg to call your attention to the irregularity pointed out, with regard to several payments which appear in the Statements of the Colonial Treasurer, and which were omitted in the Quarterly returns of New appointments, etc., for the same period, and to request that care may be taken to guard against such an omission in future.

I have, &c.,
GLENELG.

[Enclosure No. 1.]

MR. A. Y. SPEARMAN TO UNDER SECRETARY STEPHEN.

Sir, Treasury Chambers, 23d April, 1836.

I am commanded by the Lords Commsr. of the Treasury to transmit to you the copy of a letter from the Commissioners of Audit, dated the 25th Ultimo, enclosing a statement of Payments by the Colonial Treasurer of N. S. Wales in 1833 and /34; and I am to request you will submit the same to Lord Glenelg with this Board's request to be favored with his Lordship's opinion as to the propriety of admitting the Charges comprised in the Schedule enclosed.

I am at the same time to request you will call Lord Glenelg's attention to the remarks of the Auditors, respecting the omission of these payments from the periodical Returns; and will move his Lordship to cause the omission to be pointed out to the Governor of N. S. Wales in order that due care may be taken in the preparation of future Returns.

I am to request that the Schedule may be returned to this Office.

I am, &c.,
A. Y. SPEARMAN.

[Enclosure No. 2.]

THE AUDIT COMMISSIONERS TO LORDS COMMISSIONERS OF TREASURY.

My Lords, Audit Office, Somt. Place, 25 March, 1836.

The Accounts of C. D. Riddell, Esqr., as Colonial Treasurer of N. S. Wales for the year 1833 having been examined in this Office, and his Accounts from 1st Jan., 1834, to 31 March, 1835 (the latest period for which we have received them) having undergone a preliminary inspection with reference to the Quarterly Schedules of new Appointments, additions to Salaries and special payments, received from the Colony and transmitted to Us by Treasury letters of 29 Septr. and 13 Octr., 1835, We have the honor to submit to your Lordships a statement extracted from those accounts of certain payments with regard to which it is not ascertained how far the same have been approved by H.M. Govt., in order that, if your

Transmission of papers *re* accounts of treasurer.

Request for authority for admission of charges.

Omissions in accounts.

Queries by auditors *re* accounts.

Lordships shall see fit, the statement may be transmitted to the Secretary of State for his consideration.

1836.
7 May.

Your Lordships will no doubt observe that, in the greater number of instances mentioned in the enclosed List, the cases have not been included in the Quarterly Schedules of new and increased Salaries or Extraordinary Expenditure, which, as it appears to us, ought to have been done, and which, if that course had been pursued, probably might have rendered it unnecessary for us to trouble your Lordships on this occasion. We therefore submit whether the Governor should not be cautioned to be more particular in including every case of this description, even those which may have been specially reported upon.

Omissions
in quarterly
schedules.

We have, &c.,

F. S. LARPENT.
H. F. LUTTRELL.
E. ROMILLY.

LORD GLENELG TO SIR RICHARD BOURKE.

(Despatch No. 153, per ship Duchess of Northumberland; acknowledged by Sir Richard Bourke, 1st December, 1836.)

Sir,

Downing Street, 9th May, 1836.

9 May.

My attention has been called by the Lieutt. Governor of Van Diemen's Land to the embarrassment, which is likely to be occasioned to the Colony from the practice of allowing Individuals in this Country to remit sums of money through the Colonial Agent.

Objections to
private
remittances
through colonial
agent.

Having called for the report of the Colonial Agent, an Extract of which is enclosed, I thought it right to refer the question to the Lords Commissioners of the Treasury. I transmit an extract of the answer, which I have received from their Lordships; and, as the practice of which Colonel Arthur complains will be forthwith discontinued, I have to request that you will take care to supply the Agent with such funds as may be necessary to meet the expenses, which he may be called upon to defray for the services of New South Wales.

I am, &c.,

GLENELG.

[Enclosure No. 1.]

EXTRACT of a letter from Mr. Barnard to Mr. Stephen, dated 5 March, 1836.

"As other Channels are open for the remittance of money to V. D. Land, I am not aware that any inconvenience would arise from a discontinuance of the practice of receiving the remittances of Individuals, provided I am regularly supplied with Funds from the Colony for such annual expenses as the Colonial Treasurer knows to exist, as well as from time to time, when requisitions from thence are forwarded, sufficient amounts to cover the discharge of their purchase, and a Balance for incidental payments arising at home, which either the Secretary of State or the Lords of the Treasury may instruct me to defray."

Proposed
abolition of
private
remittances
through colonial
agent.

[Enclosure No. 2.]

EXTRACT of a letter from the Treasury to the Colonial Office,
dated 2d April, 1836.

“ I AM desired by their Lordships to acquaint you, for the information of Lord Glenelg, that, as my Lords apprehend, that the practice of allowing remittances to the Australian Colonies, in the manner referred to in your said Letter, was adopted principally with a view to afford facilities to the poorer Classes of Emigrants and to other persons, wishing to forward small sums to the Colonies, and as those parties can now find other and safe means of making their remittances, my Lords see no objection to the discontinuance of that practice, more especially as the supply of Funds, for the service of the Agencies for the Colonies from this source, is necessarily attended with great uncertainty.

“ My Lords would further request that, in making the requisite communication on this subject to the Officers Admg. the Govts. of N. S. Wales and V. D. Land, Lord Glenelg will cause their attention to be called to the necessity for the regular remittance either by specific credits on my Lords Board through the Military Chests, or otherwise, of the Funds required for the service of the respective Agencies in this Country.”

SIR RICHARD BOURKE TO LORD GLENELG.

(Despatch No. 53, per ship Platina.)

10 May.

My Lord,

Government House, 10 May, 1836.

Investigation
of claim of
J. H. Reibey
and J. Atkinson.

In obedience to the Instruction contained in Your Lordship's Despatch of the 8th August last, No. 36, for the further investigation of a claim of Messrs. Reiby and Atkinson to compensation on account of the seizure of their vessel “ the Eclipse ” by Government Convicts, while loading with Coals at Newcastle, I have instituted before the Executive Council the Enquiry, a copy of the Minutes of which, together with their opinion of the case, I have the honor to transmit.

In that opinion, unfavorable to the claim in question, I fully concur.

I have, &c.,

RICHD. BOURKE.

[Enclosure.]

PROCEEDINGS of the Executive Council relative to the claim of Messrs. Reiby and Atkinson for the seizure of the Schooner Eclipse by Convicts.

EXTRACT from Minute No. 2, dated 2nd February, 1836.

Present:—His Excellency the Governor; The Hon. Lt. Colonel Snodgrass; The Hon. the Colonial Secretary.

“ His Excellency the Governor laid before the Council a despatch from the Right Honorable Lord Viscount Glenelg relative to the claim of Messrs. Reiby and Atkinson to compensation for the seizure of a Vessel, belonging to them, by Convicts at Newcastle in the year 1825; and the Council advised that the subject should remain for further consideration.”

Proceedings
of executive
council *re*
claim for
seizure of
schooner
Eclipse.

1836.
9 May.
Proposed
abolition of
private
remittances
through colonial
agent.

Extract from Minute No. 4, dated 24th February, 1836.

Present, as before.

“In reference to the proceedings on the 2nd instant, the Council resumed the consideration of the claim of Messrs. Reiby and Atkinson to compensation on account of the seizure of their Vessel the *Eclipse* by Government Convicts.

“Captain Allman, who was Commandant of the Settlement at Newcastle at the time the piracy was committed, was called in and examined, and a copy of his Evidence will be found in the Appendix. The Council then advised that the subject should remain for further consideration.”

1836.
10 May.

Proceedings
of executive
council *re*
claim for
seizure of
schooner
Eclipse.

Extract from Minute No. 5, dated 25th February, 1836.

Present, as before.

“In reference to the proceedings on the previous day, relative to the claim of Messrs. Reiby and Atkinson to compensation for the loss of the Schooner *Eclipse*, the Council, understanding that Mr. Frederick Dickson, who was Superintendent of Convicts at Newcastle when the piracy was committed, was now living at Maitland, advised that he be summoned to attend before the Council to afford such information as he may possess relative to the circumstances attending the seizure of the Vessel.”

Extract from Minute No. 7, dated 3rd March, 1836.

Present as before.

“In reference to the proceedings on the 24th ultimo, the Council resumed the consideration of the claim of Messrs. Reiby and Atkinson to compensation for the loss of their Vessel the ‘*Eclipse*.’ Mr. Fredk. Dickson, who was Superintendent of public works at the time of the piracy, was called in and examined, and a copy of his Evidence will be found in the Appendix.

“The Council, having duly considered all the circumstances attending the seizure of the Vessel, so far as at this distance of time they have been able to ascertain them, the want of due care and attention on the part of the Master in being below with his mate, in permitting two of his crew to be absent, and in allowing the sails to be unfurled during the loading of his Vessel by a Convict-gang, were of opinion that the owners have no equitable claim to compensation for her seizure by prisoners of the Crown, more especially, as it appears by Mr. Dickson’s Evidence to have been generally understood that Vessels when loading at Newcastle were at the risk of the owners, and not at that of the Government; while a claim of this nature once recognised would lead to innumerable applications for compensation for losses sustained by the depredations of Convicts.”

True Extract:—E. DEAS THOMSON, Clk., Col.

[Appendix.]

Enclosure to Minute No. 4 of 1836.

EXAMINATION of Captain Francis Allman before the Executive Council, 24th February, 1836.

Examination
of F. Allman
re seizure of
schooner
Eclipse.

Do you remember when the *Eclipse* was carried off from Newcastle?—I do.

Were you Commandant at that Station at the time?—I was.

When vessels came in to take coals on board, what was the practice in respect to their loading?—The Superintendent of Newcastle, with a Gang under his orders, loaded the vessel.

1836.

10 May.

Examination
of F. Allman
re seizure of
schooner
Eclipse.

Did that Gang bring the Coals from the Shore?—Yes, invariably.

Did that Gang go on board to stow the Coals in the hold?—Part of them did, part remained in the Launch to throw the coals on board, and two or three on deck to throw the Coals into the hold.

Occasionally, did any go into the hold?—Yes, in fact to afford any assistance in loading the Vessel.

What was the object in employing a Government Gang to load the Vessel?—To facilitate in loading the vessel.

In bringing the Coals from the Shore to the Vessel, was it to prevent the crew from communicating with the Shore, Newcastle being then a Penal Settlement?—It was not a Penal Settlement at the time of the Piracy. It had lately been thrown open to Settlers.

When the Men were put on board to assist in loading the vessel, was the vessel supposed to be in charge of those so put on board, or of the Master and Crew?—Of the Master and Crew undoubtedly.

The Master and Crew knowing the character of the persons put on board to assist in loading, was it not their duty to take precautions to prevent the vessel from being carried off?—Certainly.

Do you know whether any such precautions were taken by the Master and Crew of the *Eclipse*?—I heard that the Crew were below at Breakfast or Dinner at the time she was seized, but that the Master was on deck.

Do you know whether the Master made any attempt to prevent the Vessel from being carried off?—I heard that he did.

Was the Vessel in such a state as to render it difficult to carry her off?—I think so when the Launch first went alongside, for the sails were then furled.

Were the sails afterwards loosed?—Yes, they were.

Do you know why the sails were loosed?—When the Prisoners were on board, I understood they prevailed upon the Master to loose the sail in order to afford them shelter. I saw the Mainsail loose myself.

Was the Vessel loaded when the sails were loose?—I don't think she was entirely loaded.

Had it been a practice of long standing to load vessels at Newcastle by means of Government servants?—To my knowledge it had been the practice for four years previously and continued for twelve months afterwards until the situation of Commandant was done away with.

Then do you suppose that it was generally known by Masters of Vessels frequenting the port for Coals that Convicts would be put on board their Vessels to load?—It was known to the Masters of all the small Coasting Craft.

Do you suppose it was known to the Master of the *Eclipse*?—I suppose it was.

Had she ever been there before?—She was built there, and employed as a regular Packet between Newcastle and Sydney, and carried Coals every trip.

Was the Superintendent of Convicts at Newcastle under whom these Gangs were placed free or bond?—He had served a Colonial sentence but was free at the time of the Piracy.

Had he been on board the *Eclipse*?—I am not sure.

Was it the practice of the Superintendent to go on board of Vessels loading?—It was occasionally for the purpose of measuring the Coals, but not for the security of the vessel.

Do you know in what way the Master endeavoured to prevent the Vessel from being carried off?—I heard that he attempted to seize the helm but was overpowered.

Do you recollect of what number the crew consisted?—I believe about four, three men and a boy exclusive of the Master.

Did you consider it dangerous to the safety of the Vessel to send a Launch with Convicts to the Vessel and to put some on board when the Wind was blowing from the West?—When the Launch went alongside there was very little Wind, but it started up all at once. I did not think it dangerous.

What means did the Commandant usually take to prevent Vessels from being carried off?—No vessel was allowed to get under weigh unless by an order sent by me through the Pilot or Superintendent.

Were any Sentries placed on the Shore or any Military precaution taken?—There was a Sentry on the shore and a Guard that overlooked all the vessels in the Harbour.

At what distance was the vessel lying from the spot where the Sentry was posted?—About forty yards.

What were the orders to the Sentry?—He was directed not to allow any Convicts to go on board of vessels except with the Superintendent, and not to permit vessels to leave the harbour at night.

Did any change take place in the orders to the guard or Sentry in consequence of the Piracy of the Eclipse?—Yes, the Sentry was directed, if a Vessel got under weigh without permission, to fire upon her. A notice was given to him of the clearance of any vessel intending to go out. I should add also that after this Convicts of the worst description were not allowed to go on board, especially those acquainted with Navigation or seafaring men.

1836.
10 May.

Examination
of F. Allman
re seizure of
schooner
Eclipse.

Had any other Vessel been carried off during the time you were Commandant?—None. At least three or four Vessels were loaded every week.

What number of men was there placed on board the Eclipse when she was carried off?—The number of Men sent off in the Launch was between 9 and 11.

Of which number how many were generally placed on board?—About three or four.

Are you aware of any person who could inform the Council of his own knowledge of what took place on board the Eclipse when she was carried off?—I am not.

Enclosure to Minute No. 7 of 1836.

EXAMINATION of Mr. Frederick Dickson before the Executive Council, 3 March, 1836.

Examination
of F. Dickson
re seizure of
schooner
Eclipse.

WERE YOU Superintendent of Government Works at Newcastle in 1825?—I was.

Will you state what you know of the circumstances of the seizure of the Schooner "Eclipse"?—She came to Newcastle for a Cargo of Coals. The working Gang were put on board at five O'clock in the morning to discharge her ballast. They had taken the ballast out before they went to breakfast, and on their return discharged the launch, containing about Nine tons of Coals, into the Vessel, and about four tons more from another launch lying on the larboard side. They worked until it was just high water, and before the vessel canted with the tide; they Slipped from the moorings, hoisted the peak of the Mainsail, and ran with a leading wind right out to Sea. It was blowing fresh from the Westward at the time. The whole was done before we had time to man the boats and put out after them. The Pirates put the Master, a man, and a boy on Shore in the whale Boat, when they were about three miles out at Sea. Two of the crew were on Shore, at the time the Vessel was seized, in search of water. The Master on his return stated that he was below with his Acting Mate at Breakfast, when the Prisoners closed the companion hatch on them. The Prisoners who seized the "Eclipse" were all in heavy irons. The Master had frequently been there before as Master of another Vessel.

Did he know the regulations of the Port?—I suppose he did.

Was there any regulation to prevent them from having their Sails when loading?—I believe not. They were so close to the King's Wharf, where a Sentry was placed.

Why was a Government Gang put on board?—It was the rule of the place when Vessels came for Coals, for the Gangs to discharge the ballast, and load them with Coals. An iron gang was generally made use of after the Settlement ceased to be penal. The practice, at the time the "Eclipse" was carried away, had been precisely similar for fifteen or sixteen months previously.

Did any change take place in the System after the "Eclipse" was carried away?—Yes. No ironed gang was afterwards permitted to go on board of Vessels loading, or into any boat.

Was it generally understood that Vessels, when taking in Coals at Newcastle, were at the risk of the owners or at the risk of the Government?—At the risk of the Owners. When a Vessel came into Port, it was my duty to read the Port Regulations to the Master and the Crew, whom I mustered for the purpose.

Was the Gang employed in compensation for the payment of the Coals?—Yes. The Coals were charged at Eight Shillings per ton, and there was an additional charge of two shillings and sixpence for Metage for the labor of the Gangs.

Are you aware of any other object in the employment of the Gang than to facilitate the loading?—I am not.

Did you ever hear of any objection being made to the employment of the Gangs?—Never; on the contrary, they were rather grateful for it.

Was it intended to put the Master or the Crew under any restraint by sending the Gang on board?—Certainly not.

Do you consider the Master was at liberty to refuse to receive the Gang if he had chose?—He certainly was, but he could not otherwise have loaded the Vessel. He could not have hired free persons there.

True Copies:—E. DEAS THOMSON, Clk., Col.

1836.
10 May.

SIR RICHARD BOURKE TO SIR GEORGE GREY.

(Despatch per ship *Platina*; acknowledged by lord Glenelg.
3rd January, 1837.)

Sir,

Government House, 10 May, 1836.

I have the honor to acknowledge the receipt of Your Letter of the 3rd Sept. last, enclosing an Extract of a Report from the Commrs. of Audit, together with a Communication from the Secretary to the Treasury, relative to certain payments made to Judge Burton for expences consequent on his proceeding to Norfolk Island to hold a Criminal Session.

In reply, I have the honor to transmit Mr. Burton's Explanation of the charges of which the propriety is questioned.

I have, &c.,

RICHD. BOURKE.

[Enclosure.]

[A copy of this paper is not available.]

LORD GLENELG TO SIR RICHARD BOURKE.

(Despatch No. 154, per ship *Duchess of Northumberland*.)

Sir,

Downing St., 12 May, 1836.

I transmit to you herewith a Copy of a letter which I have received from the Bishop of Australia, in which his Lordship brings under my consideration various points connected with the Ecclesiastical Establishments of New South Wales and Van Diemen's Land. I also transmit for your information a copy of the reply, which I have directed to be returned to that communication. This correspondence will place you fully in possession of my sentiments on the questions, which the Bishop has brought under my notice. I fully admit the urgent necessity, which exists for making some effectual provision for the Religious instruction of those Settlers and Convicts, who from their location in the remote districts of the Colony may at present be said to be living without the pale of the Christian Church. It appears to me that the only plan, by which this object can be accomplished, is by the employment of a moderate number of Clergymen, who might from time to time visit those stations and establishments, which by their remoteness from any place of Worship are at present wholly deprived of any of the Ordinances of Religion. As the Services of such Clergymen would be equally devoted to the free Settlers and to the Convict population thus circumstanced, I have thought it right that a portion of the expence should be borne by this Country; and I have proposed to

Transmission of explanation by W. W. Burton *re* charges for visit to Norfolk island.

12 May.

Correspondence with bishop *re* ecclesiastical establishments.

Proposal for periodical visits of clergy to country districts.

the Lords Commissioners of the Treasury the appropriation of a given sum annually towards that object from the funds voted by Parliament for Convict expenses. From the enclosed Letter from the Secretary to that Board, you will perceive that their Lordships have consented to devote the Sum of £800 per annum to that purpose, on the understanding that due regard will be had to the employment when requisite of Ministers of other religious persuasions as well as of the Clergy of the Church of England. Of this Sum, I propose to apportion £500 to the Service of New South Wales and £300 to Van Diemen's land; and I entertain a confident hope that you will experience no difficulty in obtaining from your Council a Vote of such further sums as may be necessary to give effect to the contemplated arrangement.

1836.
12 May.

Appropriation
for expenditure
on itinerant
clergy.

The Bishop of Australia has also called my attention to the two following points: 1st. The expediency of settling the appointments in the Orphan Schools in such manner that the Superintendents should be persons known to him and possessing his confidence; and 2d. His claim to have such Sums of Money as might be placed at his disposal by religious Societies in this Country, regarded in the same light as contributions of Individuals towards the erection and support of Churches and Schools, and on the same principle met by an equal advance from the Colonial funds.

Proposals by
bishop re
control of
orphan schools
and donations
by religious
societies.

On the first point, I should be extremely unwilling to deviate from the arrangement laid down in my despatch No. 80 of the 30th of November with regard to the management of the Orphan Schools; and I feel convinced that there will be every disposition to defer at all times to the judgement of the Bishop in the Selection of the Superintendents of those Schools. On the second point I am fully disposed to admit the justice of the claim which his Lordship has submitted; and I am convinced that the Council will always be disposed to meet liberally any aid which may be afforded by religious Societies in this Country towards the advancement of Religion and Education in the Colony under Your Government.

Decisions re
proposals.

I have, &c.,

GLENELG.

[Enclosure No. 1.]

BISHOP OF AUSTRALIA TO LORD GLENELG.

My Lord.

Ryde, Isle of Wight, 20th February, 1836.

Previously to my embarkation for the important station to which by your Lordship's favor I am appointed, there are a few subjects concerning which I take the liberty of requesting permission to address your Lordship; and I trust that the circumstances of my present situation may apologise for the imperfect and hurried manner in which I am compelled to do so.

Problems
submitted
by bishop.

1836.
12 May.

Limits of
diocese of
Australia.

Request by
bishop for
payment on
life insurances
for visit to
West Australia.

Your Lordship will be aware that, by the extension* of the Diocese of Australia beyond the limits of the late Archdeaconry, I was altogether taken by surprise, no such proposition having ever been made to me; nor was I indeed even aware that such measure was in contemplation until the letters patent were forwarded to me after having been sealed. It is not my wish or intention however, upon any personal account, to shrink from the additional labour and risk which would fall upon me, if the necessity of visiting this portion of my Diocese should arise. But I owe it to my family to say that the Life Insurances, by which alone I have means of making provision for them, restrict me from going by sea beyond the limits of the late Archdeaconry, and would be forfeited in the event of losing my life in proceeding to any other part of New Holland. I am persuaded that it was not the intention of H.M. Govt., in imposing upon me such additional duties, to require that I should undertake them at such a risk. The amount of my income is not such as would enable me to provide the additional expense of protecting myself on undertaking this increased hazard; and I therefore trust that Your Lordship will condescend to admit of its being understood that I shall be prepared to visit Western Australia and parts adjacent, if the Public Service should require it; but that I could do so only upon condition that the charge, necessary to secure my Life Insurances under this contingency, should be supplied on the part of the public and not from my own private resources.

Doubts *re*
propriety of
seat in
legislature for
bishop.

I am anxious also to submit to your Lordship's consideration what may be proper to be done with regard to my Seat in the Legislative Council of the Colony. The expiration of the Act, under which the present Constitution of that Body was framed, is so near at hand that it appears scarcely necessary to propose any alteration while it continues to subsist; but, in the event of any alteration taking place whereby the nature and functions of the Legislative Council should be materially changed, I must express serious doubts whether the continuance of the Bishop as a Member would contribute to the public advantage.

Necessity for
protection of
vested interests
of chaplains.

Connected with any such alteration of the Legislative functions which might place the Revenues under a different control, I presume to direct the attention of Your Lordship to the justice and necessity of making due provision for the security† of the Chaplains now upon the Establishment in New South Wales and Van diemen's Land. All of these accepted their appointments and quitted their country under a perfect understanding that their Incomes would be secured to them during life; and the equity of securing these existing Interests by some Legislative Measure is so apparent that I should not have ventured to trouble your Lordship by any reference to it, had I not deemed it possible that, amidst the multiplicity of points which must necessarily come under consideration at the same time, this might escape attention.

Proposal for
itinerant
chaplains.

In the last place, I beg to express my most respectful anxiety and hope that your Lordship will deem it expedient, in the absence of a sufficient number of parochial Clergy in New South Wales and Van diemen's land, to sanction the employment of a moderate number of Clergymen, who might officiate under my direction, not at fixed stations but be employed in visiting periodically those stations and establishments throughout the Colonies, which are so far distant from any place of worship as to be wholly deprived of participation

* Note 117.

† Note 118.

1836.
12 May.

in any of the Ordinances of Religion, public Worship and teaching, the Sacraments, and even the burial of the dead with the decencies and solemnities, which religion sanctions and public feeling requires. It is impossible to exaggerate the evils, which are extending and becoming consolidated under the present system, or the extent of responsibility which we are every year incurring in the sight of God. I have only the consolation of knowing that I have made every exertion in my power to procure the rectification of this serious wrong, and that your Lordship's disposition to apply the most speedy and effectual remedy in your power has been most feelingly expressed.

I have, &c.,

WILL. G. AUSTRALIA.

[Enclosure No. 2.]

SIR GEORGE GREY TO BISHOP OF AUSTRALIA.

My Lord,

Downing Street, 12th May, 1836.

I am directed by Lord Glenelg to acknowledge the receipt of your letter of 20th Feby. last, and to address to you the following reply on the various points to which you have called his Lordship's attention.

Letter acknowledged.

With respect to the extension of the Diocese of Australia beyond the limits of the late Archdeaconry, I am to remind your Lordship that the only settlement comprised within the Bishopric, which was not included within the Archdeaconry, is that of Western Australia, where there is only one Chaplain. Lord Glenelg considered that it would be so obviously inconvenient to have this settlement subject to the Ecclesiastical Jurisdiction of the Bishop of Calcutta, that he did not hesitate to comprise it within the New See of Australia, within which Territory it is geographically included. The effect of this arrangement will be to place the Chaplain at this settlement under your Lordship's control as his Diocesan, which, from the comparative vicinity of Western Australia to New South Wales, is likely to be more effective than that of the Bishop of Calcutta. Lord Glenelg does not anticipate that, during the infancy of that Settlement, in which there is not more than a single Clergyman of the established Church, the personal visitation of Your Lordship can be necessary in order to render your authority efficient and useful; nor does he conceive that such visitation, however desirable under other circumstances, would be compatible with the more important duties which you will have to discharge in New South Wales and Van diemen's land, especially at the commencement of a new system of Episcopal superintendence. Should the Western Australian Colony be considerably enlarged, and the number of Clergymen in it multiplied, the presence of the Bishop at certain periods may be found indispensable; and, on the other hand, the Situation of the Churches in N. S. Wales and V. D. Land may by that time be such, under the mature working of the Episcopal system, as to admit without inconvenience of the occasional absence of the Bishop of Australia from the last mentioned parts of his Diocese. At present however, it does not seem requisite to discuss the question which you have suggested, and which will hereafter more naturally demand attention.

Inclusion of West Australia in see of Australia.

Improbability of necessity for visitation of West Australia by bishop.

Lord Glenelg is happy to find that your sentiments coincide with those of his Lordship as to the expediency of the Bishop of Australia retaining a seat in the Legislative Council of New South

Problem of seat for bishop in legislature.

1836.
12 May.

Problem of
seat for bishop
in legislature.

Wales, in the event of a change in the Constitution of that Council; and I am directed to convey to you his Lordship's thanks for the suggestion, which you have made to him on this subject.

However valuable may be the public Services which Your Lordship would be enabled to render as a Member of that Body, Lord Glenelg is strongly of opinion that the influence attached to your station and character in the Colony will be more beneficially exerted for the prosecution of the great object, which you have in view, by your not being a party to the deliberations and discussions on matters of general policy, which must occupy the attention of the local Legislature.

Claim for
protection of
vested interests
of chaplains.

Lord Glenelg fully admits the equitable claim, which the present Chaplains in N. S. Wales and V. D. land have, that their existing interests should be secured to them; and, in the arrangement connected with the Ecclesiastical Establishment in those Colonies, he has always regarded these Clergymen as differently circumstanced from any others who may hereafter be appointed, and as entitled to the fulfilment of an agreement* on the faith of which they accepted their appointments.

Arrangements
re itinerant
clergy.

Lord Glenelg has not failed to bring under the consideration of the Lords Comrsrs. of the Treasury the necessity of making some further provision for the Religious Instruction of the Convicts, employed in the more remote stations in the Colonies of New South Wales and V. D. Land, as well as for the Administration of the Ordinances of Religion to the Settlers at the distant locations. Their Lordships have acceded to Lord Glenelg's recommendation for the Assignment, out of the Grant for Convict Services, of an annual amount not exceeding £800 to be placed in given proportions at the disposal of the respective Governors towards defraying a part of the expense of employing a moderate number of Clergymen, who may from time to time visit those stations and Establishments. This sum will not be appropriated exclusively to the employment of Clergymen of the Church of England, but due regard will be had to the employment where requisite of Ministers of other Religious denominations. Lord Glenelg confidently hopes that the respective Councils of these Colonies will willingly accede to a certain Expenditure towards the same object.

I have, &c.

GEO. GREY.

[Enclosure No. 3.]

MR. A. Y. SPEARMAN TO UNDER SECRETARY STEPHEN.

Sir,

Treasury Chambers, 23d April, 1836.

Annual grant
authorised by
treasury for
itinerant
clergy.

With reference to your letter of 8th Ult., stating that strong representations have been addressed by the Bishop of Australia to Lord Glenelg, as to the condition of many of the Convicts in regard to Religious Instruction, I am directed by the Lords Comrs. of H.M. Treasury to acquaint you, for the information of Lord Glenelg, that, concurring with his Lordship in opinion as to the urgent necessity under the circumstances adverted to in your letter, of making some provision for the Religious Instruction of the Convicts employed at the more remote Stations of the Australian Penal Settlements, as well as for the administration of the Ordinances of Religion to the Settlers at the distant locations, my Lords approve of the arrangement submitted to them by you, and are

* Note 118.

prepared to sanction the appropriation out of the Grants for Convict Services of an annual amount not exceeding £800 to be placed at the disposal of the Govrs. of N. S. Wales and V. D. Land, in such proportions as Lord Glenelg may deem advisable, towards defraying such portion of the expense of employing Clergymen to visit the distant Settlers and Convict Gangs, as may be considered to attach to the Convicts, with understanding that due regard will be had to the employment where requisite of Ministers of other Religious persuasions as well as the Clergy of the Church of England.

1836.
12 May.

Annual grant authorised by treasury for itinerant clergy.

I am, &c.,
A. Y. SPEARMAN.

SIR RICHARD BOURKE TO LORD GLENELG.

(Despatch No. 54, per ship Platina; acknowledged by lord Glenelg, 3rd December, 1836.)

My Lord. Government House, 12 May, 1836.

At the request of Captn. Allman, a retired Military Officer in the service of this Government as Police Magistrate for the District of Goulburn, I have the honor to transmit a Memorial, which he has addressed to Your Lordship with a view to the commutation of a Pension of £100 per annum for an equivalent, at ten years' purchase, in Land to be granted to him in the Colony at the minimum price.

Request by F. Allman for commutation of pension for remission on purchase of land.

In recently forwarding* a somewhat similar Memorial from Lieut. Ogilvie, a retired naval officer, I had occasion to suggest the propriety of paying the amount of any such commutation from the Military Chest into the Colonial Treasury, to which latter fund, according to existing arrangements, the sums remitted upon Land will properly belong. Your Lordship will perceive that the present case is open to the same observation.

Adjustment of commutation.

Should it be thought proper to allow Land at the minimum price upon this or any similar application, I would recommend that it be confined to the Land open to selection on these terms by officers retiring for the purpose of becoming Settlers. To lay open other Lands to selection at a low price without competition would give an unfair advantage and lead to much inconvenience.

In my own opinion it will be more desirable to allow any commutation of the kind, applied for, in money than in Land.

Proposed commutation in money.

I have only to add that the respectable character of Captn. Allman, as well as his numerous family and misfortunes, entitle him to any consideration compatible with the public advantage.

Testimony in favour of F. Allman.

I have, &c.,
RICHD. BOURKE.

[Enclosure.]

[A copy of this memorial is not available.]

* Note 119.

1836.
14 May.

LORD GLENELG TO SIR RICHARD BOURKE.

(Despatch No. 155, per ship *Duchess of Northumberland*.)

Sir, Downing Street, 14 May, 1836.

I have the honor to request that you will cause to be paid to the respective Officers of the "*Duchess of Northumberland*," female Emigt. Ship, provided you shall have reason to be satisfied with the manner in which they may appear to have discharged their duties during the voyage, the following gratuities, vizt.:—

To the Surgeon, £50; the Master, £25; the Chief Mate, £15;
the Second Mate, £10.

I have, &c.,
GLENELG.

LORD GLENELG TO SIR RICHARD BOURKE.

(Despatch No. 156, per ship *Duchess of Northumberland*.)

Sir, Downing Street, 14 May, 1836.

With reference to my Despatch to you, No. 100 of the 30th of Jany. last, acquainting you with the intention of His Majesty's Government to despatch a Ship with Female Emigrants to Sydney during the present month, the whole cost of whose conveyance would be defrayed (in the manner therein named) at the charge of the Colony, and directing you to be prepared to make the requisite payment on their arrival; I have now the honor to request that you will pay to Captn. David Roxburgh the sum of (£8) eight pounds on account of each female whose name is inserted in the enclosed list, as having embarked on board the "*Duchess of Northumberland*"; and that you will also pay into the Military Chest the sum of (£9) nine pounds for each Emigrant, which will be the amount of the sum advanced by the Treasury on their account in this country.

I have, &c.,
GLENELG.

[Enclosure.]

[This list contained the names of two hundred and thirty-six single women, twenty married women and seventeen female children.]

LORD GLENELG TO SIR RICHARD BOURKE.

(Despatch No. 157, per ship *Lady Kennaway*.)

Sir, Downing Street, 23d May, 1836.

I have received your Despatches of the 26th of November, No. 113, and the 1st of December, marked "Separate," relative to the question of Precedence pending between Mr. Justice Dowling and Mr. Justice Burton.

Gratuities for officers of ship *Duchess of Northumberland*.

Instructions re payment for immigrants per ship *Duchess of Northumberland*.

23 May.
Despatches acknowledged.

Having already, in my Despatch No. 136 of the 29th of March last, conveyed to you my sentiments on this subject, I have now only to refer you to that despatch.

I am, &c.,

GLENELG.

1836.
23 May.

Reference to former despatch.

LORD GLENELG TO SIR RICHARD BOURKE.
(Despatch No. 158, per ship Lady Kemmaway.)

Sir,

Downing Street, 24th May, 1836.

24 May.

I transmit to you herewith a Memorial which I have received from an Individual named Morgan, praying that he may be allowed a remission of Quit-rent on Land, according to the terms of a Government Notice to which he refers, bearing date the 26th August, 1831; and also that the Government would receive as the Purchase money for land certain Promissory Notes which he holds from Individuals whom he has conveyed to the Colony.

Transmission of memorial from W. Morgan.

You will have the goodness to acquaint Mr. Morgan that his application cannot be entertained, unless it is transmitted through you, not only because such is the general Rule,* but because the case is unintelligible without a report from you. I am, &c.,

Refusal of application.

GLENELG.

[Enclosure.]

THE MEMORIAL OF WILLIAM MORGAN OF SYDNEY, MERCHANT.
Sheweth.

Memorial from W. Morgan re remission of quit rent and payment for land by promissory notes.

That your Memorialist arrived in this Colony free by the Brig "Fame" from Liverpool in the year 1831, bringing with him a Family consisting of a Wife, nine children and a servant, for the express purpose of acting in the Capacity of Agent to Mr. Edward Walkinshaw of Liverpool, in receiving from him Vessels with Emigrants and returning those Vessels to him with Cargoes. That your Memorialist continued to act in that capacity for a period of 3 years, during which time considerable orders were transmitted by your Memorialist to the said Edward Walkinshaw for Emigrants to this Colony, and large Bodies were received by him in his capacity of agent as aforesaid, to the extent of at least 1,500 persons. That your Memorialist on his arrival in the Colony was enabled to shew the necessary amt. of capital to entitle him to a Grant of 2,560 Acres of Land (subject to Quit rent) and which he recd. accordingly; but subsequent regulations precluded him from receiving any Land for his Children, which they wou. otherwise have become entitled to. That Yr. Memorialist, in the Course of Conducting his Agency for the said E.W., recd. large Sums of Money from the Government in the shape of Loans and Bounties on account of a portion of the Emigrants so arriving as aforesaid, and obligations from others for the payment of their respective Passs. Money. That Your Memorialist was induced to recommend the sending out

* Note 1.

1836.
24 May.

a large portion of the Emigrants that arrived, in consequence of a Notice to the following effect from the Government here:—

Memorial from
W. Morgan *re*
remission of
quit rent and
payment for
land by
promissory
notes.

Colonial Secretary's Office, Sydney, 26 August, 1831.

QUIT RENTS. In pursuance of Instructions issued by the Right Honorable the Secretary of State for the Colonies with the view of promoting the Introduction of *Agricultural Laborers* and *Mechanics*, His Excellency the Governor directs it to be notified to those Settlers, who are permitted to redeem the Quit Rent payable on their respective Grants by any given number of years' purchase, that they will be allowed an abatement in the Redemption of the said Quit rent, as follows, vizt. :—

For every Family, which they shall bring into the Colony consisting of a Man, his Wife and 2 Children	£35
or For every Woman	£15
For Every Man	£12
For every Child not exceeding 2 of any one Family ..	£4

By His Excellency's Command,

ALEX. MCLEAY.

That Yr. Memorialist has in his possession Promissory Notes and Obligations to a considerable extent, recd. by him as aforesaid for passage money of Individuals to this Colony, and which, from the extreme poverty of the parties, he is unable to obtain payment for.

That the following Notice has been lately put forth by the Government here, vizt. :—

“Colonial Secretary's Office, Sydney, 3rd Novr., 1835.

“Loans to Emigrants.

“His Excellency the Governor directs it to be notified, for the information of the parties concerned, that His Majesty's Government has been pleased to remit any claims to the repayment of Loans made to Emigrants in aid of their Passage from Great Britain to this Colony, which may still remain unliquidated.

“Instructions have accordingly been given to the Collector of Internal Revenue to forego these claims, as well as to refund all sums received by him on account of the Loans in question.

“By His Excellency's Command,

“ALEXANDER MCLEAY.”

And Yr. Memorialist in consequence has given up all hopes of ever being able to recover the amount of the obligations in question from the feeling that prevails generally, that both description of Obligations are analogous.

That Your Memorialist, in Consequence of the failure of his correspondent Mr. Edwd. Walkinshaw, is left with these obligations as the only security for the payment of a large Sum of Money due to him, and which has been incurred in promoting the purposes of Emigration.

Your Memorialist therefore prays that you will order him to receive from the Government here an exemption from Quit Rent for the 2,560 acres of Land granted to him for and in respect of persons, brought by him into the Colony, to an extent sufft. to entitle him to the same, and in conformity with the Government notice put forth. And further, that your Memorialist may be allowed to

purchase Land from the Government here, paying for it to the extent of the obligations referred to, and which he will hand over to the Authorities here upon obtaining possession of the Land.

And Your Memorialist as in duty bound will ever pray.

WM. MORGAN.

1836.
24 May.

LORD GLENELG TO SIR RICHARD BOURKE.

(Despatch No. 159, per ship Lady Kemmaway; acknowledged by Sir Richard Bourke, 9th September, 1837.)

Sir,

Downing Street, 25th May, 1836.

25 May.

I have received a letter from Mr. Busby, the Resident at New Zealand, bearing date the 2d November last, enclosing copies of the various communications which he had addressed to you between the 31st of January and the 31st of October, 1835. I have also received a letter from Mr. Busby of the same date, enclosing a copy of a Declaration made by the Chiefs of the Northern parts of New Zealand, setting forth the Independence of their Country, and declaring the Union of their respective Tribes into one State under the designation of the Tribes of New Zealand.

Despatches received from J. Busby.

I perceive that the Chiefs, at the same time, came to the resolution to send a copy of their Declaration to His Majesty to thank Him for His acknowledgment of their Flag,* and to entreat that, in return for the Friendship and protection which they have shewn and are prepared to shew to such British Subjects as have settled in their Country or resorted to its shores for the purposes of Trade, His Majesty will continue to be the Parent of their Infant State, and its Protector from all attempts on its Independence.

Request by Maori chiefs for British protection.

In my despatch No. 65 of the 28th of October last, I communicated to you my sentiments with regard to the state of our relations with the New Zealanders.

I take it for granted that, before this Despatch reaches you, you will have come to some conclusion as to the continuance of Mr. Busby in the Appointment of Resident. You would, of course, lose no time in communicating to him whatever course you might resolve to adopt regarding him.

Proposal for withdrawal of resident.

With reference to the desire which the Chiefs have expressed on this occasion to maintain a good understanding with His Majesty's Subjects, it will be proper that they should be assured in His Majesty's name, that He will not fail to avail Himself of every opportunity of shewing His good will, and of affording to those Chiefs such support and protection as may be consistent with a due regard to the just rights of others and to the interests of His Majesty's subjects.

Support and protection for Maori chiefs.

I am, &c.,

GLENELG.

* Note 120.

1836.
26 May.

LORD GLENELG TO SIR RICHARD BOURKE.
(Despatch No. 160, per ship Lady Kennaway.)

Sir, Downing Street, 26th May, 1836.

Concessions on
purchase of
land for officers
of E.I. company.

With reference to former correspondence relative to the question of admitting the retired Officers of the East India Company's Army to a participation in the advantages accorded to Officers having served in the British Army and Navy in regard to the purchase of Land in the Australian Colonies, I have now to acquaint you that, in consequence of a representation which I have recently received from Govr. Sir J. Stirling* in Western Australia, I brought the subject again under the consideration of the Court of Directors of the East India Company. I enclose for your information a copy of a letter† which has been received from the Secretary to the Commissioners for the affairs of India, intimating that the Court of Directors are willing to accept the offer renewed to them on the part of His Majesty's Government on this subject.

You are, therefore, authorized to extend to such officers of the East India Company's Army, as may produce to you the necessary Certificates of their Rank and the length of their services signed by competent authorities, the same benefits which would be accorded to officers of The King's Army.

I have, &c.,
GLENELG.

LORD GLENELG TO SIR RICHARD BOURKE.
(Despatch No. 161, per ship Lady Kennaway.)

27 May.

Sir, Downing Street, 27th May, 1836.

Transmission
of memorial
from T. Agars.

I transmit to you herewith a Memorial, which I have received from Mr. Thomas Agars setting forth his claim to a Grant of Land in New South Wales; and I have to request that you will acquaint Mr. Agars that the objection to his receiving a Grant of Land, which rested in the first instance on his being engaged in other than Agricultural pursuits, now rests on the new ground, that the system of granting Land has been abolished, and that, therefore, I can only regret my inability to accede to his application.

I am, &c.,
GLENELG.

[Enclosure.]

Memorial from
T. Agars
soliciting
land grant.

THE Humble Memorial of Thomas Agars of Sydney,
New South Wales, Accountant,

Sheweth.

That your Memorialist arrived in Sydney in April, 1829, possessed of sufficient capital to entitle him, under the then Regulations, to apply for a grant of One thousand Acres of Land, and

* Note 121.

† Note 122.

that he brought with him a letter from Mr. Horace Twiss, No. 1, dated London, 13th October, 1828, to shew that he was a proper person to apply for such Grant.

1836.
27 May.

That, being then under a Mercantile engagement with the House of John Bettington, Sons, and Co., which required his residence in Sydney, Your Memorialist abstained from applying for the said Grant in the Interior, but purchased a Town allotment in May, 1830, on which he built a substantial Stone House, and, on the 19th Octbr., 1830, Solicited a Town allotment in lieu of a grant of land in the interior, a similar indulgence having been allowed to a neighbour of his.

Memorial from
T. Agars
soliciting
land grant.

That Your Memorialist's application for such Town allotment, in lieu of a grant of land in the Interior, was refused by His Excellency General Darling on 21 October, 1830.

That Your Memorialist has contributed to the improvement of a thinly peopled part of the Town of Sydney by the erection of buildings at a very considerable expense.

That Your Memorialist respectfully begs to submit, although His Excellency The Governor, Major General Sir Richd. Bourke, cannot under the present regulations entertain his application for a grant of Land, he has not forfeited his claim to such indulgence.

Your Memorialist therefore humbly petitions that the requisite authority may be transmitted to His Excellency Major General Sir Richd. Bourke to allow to Your Memorialist such grant of Land, as may be deemed proper.

And so Your Memorialist will ever pray. [Unsigned.]

Sydney, New South Wales, 28 November, 1835.

LORD GLENELG TO SIR RICHARD BOURKE.

(Despatch No. 162, per ship Lady Kennaway.)

Sir,

Downing Street, 2d June, 1836.

2 June.

I have received your despatches of the 2d of December last, the one numbered 117, the other marked "Separate and Confidential," reporting the circumstances which had led to the suspension of Mr. Campbell Riddell from his office of Executive Councillor. I have also received a letter from Mr. Riddell himself, bearing date the 8th of December last, in which he encloses a copy of a letter addressed to him by the Colonial Secretary on the 7th of the same month, and requests that I would suspend my judgment on his case until he shall be enabled to forward to England proofs of the truths of his statements to you.

Despatches
acknowledged *re*
C. D. Riddell.

It appears from Mr. McLeay's Letter of the 7th of December that, on the 4th of that month, Mr. Riddell addressed a letter to you, which contains a part of his defence, made before you had declared the correspondence to be closed. That letter could not have been transmitted by you, having been written after the date of your despatch, and Mr. Riddell has not forwarded it,

Non-transmission
of letter.

1836.
2 June.

Decision
suspended *re*
C. D. Riddell.

because his case is yet to be stated by him. Under these circumstances, I shall of course await Mr. Riddell's explanations, and at present only acknowledge the receipt of your despatches upon this subject.

I have, &c.,

GLENELG.

LORD GLENELG TO SIR RICHARD BOURKE.
(Despatch No. 164, per ship Bengal Merchant.)

8 June.

Application by
R. Robison for
land grants.

Sir,

Downing Street, 8th June, 1836.

I transmit to you herewith a copy of a letter, which has been addressed to my Under Secretary by Captain Robison, containing an application to receive a Grant of Land on his return to New South Wales.

You will perceive that Captain Robison rests his application on two grounds: 1st, on account of his Services as a Military Officer, and particularly as having served in the New South Wales Veteran Companies; and 2d, in consideration of his having married the Daughter of the late Judge Stephen.

The enclosed copy of a letter, which I have directed to be written to Captn. Robison in reply to his application, will place you in possession of my sentiments on this subject. As the General Commanding in Chief has judged it proper so far to relieve Captn. Robison from the consequences of the Sentence passed on him by the Court Martial,* as to permit the Sale of his Commissions, I am induced to authorise you to make him such a Grant of Land as he would have been entitled to receive, had he continued to be in the service at the time when the New South Wales Veteran Companies were disbanded, the grant, of course, to be subject to the conditions in force at that period.

With regard to his claim to a Grant as a Marriage portion to his Wife, I have felt it impossible to comply with that part of his application.

I am, &c.,

GLENELG.

[Enclosure No. 1.]

CAPTAIN ROBISON TO SIR GEORGE GREY.

Sir,

20 East St., Red Lion Square, 25th May, 1836.

In acknowledging the receipt of your letter of the 13th Inst. enclosing me a copy of one, addressed by Lord Hill to the Secretary of State for the Colonies, I beg you will offer my most sincere thanks to Lord Glenelg for the kind and humane manner, in which he has been pleased to forward Sir Henry Hardinge's and the other officer's recommendation of me to the favorable consideration of the General Commanding in Chief.

I would now most respectfully beg leave, with reference to your Letter of the 14th last December, to submit that, as Lord Hill has been so good as to now allow me the whole of the Sales of my Company, and thus place me in the position which all the other

Land grant
authorised for
R. Robison;

but refused
for wife.

Letter
acknowledged.

officers of the late N. S. Wales Veteran Companies were in, who had sold their Commissions for the purpose of becoming Settlers in that Colony, That Lord Glenelg will kindly comply with the unanimous wish expressed by the late select Committee* of the House of Commons, before whom I was examined as a Chief witness, of allowing me the same Grants of Land as was given to all the other veteran officers who became Settlers in that Colony under the order (herewith enclosed), which was then applicable to these companies and the chief inducement for my proceeding with them to New South Wales.

1836.
8 June.
Request for land grant as retired officer ;

I would also submit, with reference to that part of your Letter of the 14th December which relates to the usual Grant of Land being withheld from my Wife (as the Daughter of the late Judge Stephen) upon her marriage, that the precedent at the time established in the enclosed List (copied from the Parliamentary Paper No. 606 of 16th July, 1832) might, through the Justice of Lord Glenelg, be made applicable to her, as the reason stated for its not being granted at the time of her marriage (because I was on full pay) might be also applied to many of the Husbands of those Ladies now referred to, and who were receiving full pay at the period of their marriage.

and for wife as marriage portion.

I sincerely trust, Sir, that neither Lord Glenelg or yourself will ascribe, to anything in the shape of Invidious feeling, my now calling your attention to these Ladies' Grants, but simply to respectfully submit that the Daughter of the late Mr. Justice Stephen, who had so many claims upon the consideration of the Government for his long and arduous services, might not be made an exception merely because it became her unfortunate lot to be my wife.

Finally whatever may be the ultimate decision of Lord Glenelg, I shall never cease to feel that sense of gratitude to his Lordship which his late generous efforts on my behalf with the Horse Guards must ever lay me under. Nor should I have urged my present request, had not the fact been that, when all the little outstanding claims upon me for the heavy expences, I have been put to for the last six years, are settled, there will be but very little indeed left me of the Sales of my Commissions, to which I can look forward in the Shape of a future provision.

Gratitude for support at Horse guards.

Trusting you will allow me to offer you my personal thanks for the considerate manner in which you have been pleased to receive me and view my case,

I have, &c.,

R. ROBISON,

late Captain of N. S. Wales Vet. Corps.

[Enclosure No. 2.]

MEMORANDA of Grants of Land made to Ladies upon their Marriage in New South Wales. Extracted from the Parliamentary Paper No. 606, 16 July, 1832.

Return of land grants as marriage portions.

THE Daughter of Sir John Wylde, Chief Justice at the Cape of Good Hope, now Mrs. Palmer, 1,280 Acres.

The four Daughters of Mr. McLeay the Colonial Secretary on their Marriage, each 1,280 acres.

The Daughter of the Revd. Mr. Cowper, Colonial Chaplain (now Mrs. Brooks), 1,280 acres.

The 3 Daughters of the Revd. Mr. Fulton, Colonial Chaplain, Each 1,280 Acres.

* Note 123.

1836.

8 June.

Return of land
grants as
marriage
portions.

The 2 Daughters of the Revd. Mr. Cartwright on their Marriage, each 1,280 Acres.

The Daughters of the Revd. Mr. Marsden, Senior Colonial Chaplain, each 1,280 Acres.

The Miss Kinghornes, 1,280 acres.

The Daughters of the Revd. Mr. Reddall, Colonial Chaplain, each 1,280 Acres.

Miss Campbell, Daughter of the Member of the Colonial Council, 1,280 Acres.

Miss Lawson, the Daughter of a retired Lieutenant of Veterans, 1,280 Acres.

The Miss Mudie, Miss Taupy, Miss Scargill, Mrs. Abel and various others, each 1,280 Acres.

The Daughter of Lieutt. Colonel Shadforth, 57th Regt., on her Marriage, 1,280 Acres.

[Enclosure No. 3.]

[A copy of this letter,* dated 6th June, 1836, is not available.]

SIR RICHARD BOURKE TO LORD GLENELG.
(Despatch No. 59, per ship William Inglis.)

9 June.

My Lord,

Government House, 9 June, 1836.

Schooner
Isabella sent
to search for
survivors from
barque *Charles*
Eaton.

In obedience to Your Lordship's commands conveyed in the Despatch, No. 63, of 20th October last, I have sent a Colonial Vessel into the Straits of Torres in search of the Passengers and Crew of the "Charles Eaton" Merchant Ship. I have made every arrangement that I thought likely to ensure success in this undertaking, and have furnished the Master with Sailing Instructions drawn up by Capt. King of the Royal Navy, an officer well known for his skilful survey of a considerable part of the Coast of New Holland, who very kindly rendered me his valuable assistance in superintending the fitting out of the *Isabella*.

Expenditure
incurred.

The Expencc, which has been necessarily incurred in preparing a Colonial Vessel for this service, has been very considerable, and as it will probably demand four months for its completion, a crew of five officers and 25 seamen will require to be maintained during that time. One of H.M.'s Ships would have been more fitted for the discharge of this duty; but, as the proposal to employ a Colonial Vessel came from the Admiralty, I did not consider myself at liberty to wait the arrival of the Cruizer that occasionally visits these Coasts from the Indian Station, and is now among the South Sea Islands, to request the Commander to undertake the Search.

I transmit a copy of the Instructions given to the Master of the *Isabella*, which sailed from hence on the 5th instant.

I have, &c.,

RICHD. BOURKE.

* Note 122.

[Enclosure.]

1836.
9 June.INSTRUCTIONS TO CHARLES MORGAN LEWIS, MASTER OF SCHOONER
ISABELLA.Instructions to
C. M. Lewis,
master of
schooner
Isabella.

By His Excellency Major General Sir Richard Bourke, K.C.B.,
Commanding His Majesty's Forces, Captain General and Gov-
ernor in Chief of the Territory of New South Wales and its
Dependencies and Vice Admiral of the Same, etc., etc., etc.

WHEREAS it has been represented that the Barque Charles Eaton, which sailed from Port Jackson in the Month of July, 1834, was lost on a reef near Sir Charles Hardy's Island on the North East Coast of New Holland; that portions of Wreck, Supposed to have belonged to that Vessel, have been found at Double Island in Torres Strait; and that there is reason to believe that some of the Passengers and Crew are Still in existence in Murray Island; And Whereas His Majesty's Government have directed Search Shall be made and every endeavour used to rescue the said Europeans or any others, who may be detained without their own consent in the above mentioned or other adjoining Islands. You are hereby required and directed to take Command of the Government Colonial Schooner Isabella and to proceed in her to the performance of this duty, governing yourself generally therein by the accompanying Memorandum drawn up by Captain King, R.N., at my request.

At whatever place you touch you are to make strict search for the purpose of ascertaining whether any document has been left, either by erecting a Post, Carving a tree, burying a writing in a bottle or other Vessel, or in any other manner, pointing out the course intended to be followed by the parties. If there be any Natives. You will also make enquiries of them, and for this purpose take pains to conciliate and to continue upon good terms with them, using the utmost precaution, however, to prevent their taking you by Surprise or obtaining an opportunity of attacking you. With this view you will never permit any boat to go alone, or to be hauled up on the beach, but oblige them to be always kept afloat, and guarded by a Sufficient party; And you will do well, without betraying Alarm, to be yet very Suspicious and Watchful whenever they appear inclined to be most friendly. Before leaving any place You will collect any Articles or portions of Wreck You may find that are portable with a view to their being Subsequently identified, and will deposit a Memorandum Specifying the date and the Step you next propose to take, Securing the Memorandum if possible in Such a manner as may be intelligible to Europeans but not easily discernable by the Natives, Such as burying a bottle in the sand and erecting over it a piece of wood in which the words "Dig Under" may be carved or painted. Should you succeed in finding any White People, it will be necessary to use yet greater address either to induce the Natives to Surrender them Voluntarily, or to Concert Measures with the parties themselves for enabling them to effect their escape; and, when you have received all on board, or, if you fail of discovering any, when you have fully Satisfied yourself that none really exist, you will return without further delay to this Port, Submitting a Journal of your proceedings, with a Chart of your Voyage, and a Separate Statement of such important verifications or corrections of former Charts as you may have been enabled to make.

1836.

9 June.

Instructions to
C. M. Lewis,
master of
schooner
Isabella.

For Your guidance in visiting the Seas and Islands above Alluded to, I have given directions that You Shall be furnished with Copies of Captain King's Charts and Flinders' Voyage, together with such accounts as have been received of the loss of the Charles Eaton, and Presents for the Natives, all of which are enumerated in the annexed List. And in Conclusion I have only to impress upon you that you are not to have recourse to forcible measures in any case whatever, except only in the actual and necessary defence of Life, when all other means have been resorted to and have failed; that the foregoing Instructions have been drawn up rather for Your general government as to your first Movements and for information as to the duties entrusted to you, than for Specific Control in the performance of those duties; and that much reliance is placed upon Your personal firmness, vigilance, resolution, and judgment, both in determining, from Such additional information as you may obtain, or from circumstances, what further measures it may be best for you to adopt from time to time, and in carrying those several Measures into execution.

For the performance of which Several duties, this Shall be Your Warrant.

Given under my hand at Government House, Sydney, this
30th day of May, 1836.

RICHD. BOURKE.
By His Excellency's Command,
ALEXR. MCLEAY.

[Sub-enclosures.]

Papers and
documents
given to
C. Morgan.

LIST of Papers and documents entrusted to Mr. Charles Morgan Lewis, Commanding His Majesty's Colonial Schooner *Isabella*, proceeding to Torres Straits, 30 May, 1836.

(1) Flinders' Voyage, 2 Volumes. (2) Captain King's Charts, Nos. 1, 2 and 3. (3) Copy of letter* from Mr. Bayley to Sir John Barrow, Secretary to the Admiralty, 5th October, 1835. (4) Copy of Letter from Mr. Wiseman, Master of the *Augustus Cæsar*, to Mr. Nicholson, Master Attendant, 1st April, 1836. (5) Copy of the Sydney Herald Newspaper, 28th April, 1836. (6) Copy of Memorandum drawn up by Captain King, R.N., 26 May, 1836. (7) List of Articles provided for Barter with the Natives. (8) Copy of the Bengal Herald.

[4] MR. W. WISEMAN TO MR. NICHOLSON.

Ship *Augustus Cæsar*,
Sydney Cove, 1 April, 1836.

My dear Sir,

In answer to your enquiry of the fate of the Ship Charles Eaton, who left this Port in Company with the Schooner *Jane* and *Henry*, on or about the 1st of August, 1834,

I find the *Augustus Cæsar* sailed from here in the month of August, met the *Jane* and *Henry* on twenty seventh then outside of the Barrier Reef, and kept company with her through the Strait; that, on the 1st or 2d of September, we anchored Under Double Island (about 3 p.m.). I allowed my second mate with a boat and Crew to land; they remained on shore until sun set and on their return reported they had seen a quantity of light wreck. Cuddy

Discovery of
signs of wreck
of barque
Charles Eaton.

* Note 124.

doors and Windows and two planks of the side of a Ship; that he had walked round the Island, but could not find the Main wreck; that they surprised some Natives who run into the Bush, from where they had recently had a fire; near which my second mate, Mr. H. Hartley, says there were some human bones. They brought with them a window frame, a keg and other fragments of wreck, sufficient to convince me it was the Charles Eaton, and that she must be at a considerable distance to windward of Double Island, probably near Mount Adolphus, Cape York, on the reefs or Islands in their vicinity, they being directly to Windward; during the night, we saw several large fires on the Wednesday Island, but considered it unsafe to land on it. I called and sent a boat on shore at Booby Island and found they had not been there. I fear they have not saved any of their boats.

My first and second mates, one seaman and one boy were in the Augustus Cæsar on her last voyage.

I remain, &c.,
W. WISEMAN.

1836.
9 June.
Discovery of
signs of wreck
of barque
Charles Eaton.

[6] MEMORANDUM BY CAPTAIN P. P. KING.

FROM the report of Captain Carr of the Mangles (See the Sydney Herald),* it would appear that some of the Crew of the Charles Eaton are detained by the Natives of Murray Island. It would therefore be advisable that the Isabella first proceed by the outer passage, round the Eastern Fields, and enter the Barrier Reef by either the Investigator's or the Cumberland's entrance (directions for which will be found in Captain Flinders 2nd Volume), and Anchor off Murray Island. She will then be probably visited by the Indians for the purpose of bartering, by entering into which Mr. Lewis will have an opportunity of discovering Whether any Europeans exist there or in the neighbourhood, as they may be brought forward for the purpose of interpreting, if they find any difficulty in making Mr. Lewis understand them.

Suggestions by
P. P. King re
search for
survivors of
barque *Charles
Eaton.*

In Communicating with the Indians, Much depends upon Mr. Lewis' discretion and judgment, and much of course upon the opportunities that offer for the furtherance of the object of the Voyage, always looking to the Safety of the Vessel, as her loss would not only endanger the lives of the Crew, but put an end to the important Service on which the Vessel is engaged.

Failing in finding any traces of the people, the Isabella Should then be moved to Double Island, and Mr. Lewis Should make diligent search round the beach for any portions of the Wreck, discovered on the windward side of the Island by the Augustus Cæsar, and ascertain if possible to what Vessel the wreck belonged; Since, if the Charles Eaton was wrecked as has been reported at Sir Charles Hardy's Island, it is improbable that her wreck could have drifted to Double Island, although it might to the Islands more to leeward. I apprehend it must be the wreck of Some other Vessel. The Schooner Should there be moved to a Secure Anchorage among the bays to the South of Wednesday and Hammond Islands, where a most Minute and diligent search Should be made. The Natives here are Numerous, but by no Means so ferocious or Mischievous as those of Murray's Island.

* Note 125.

1836.

9 June.

Suggestions by
P. P. King re
search for
survivors of
barque *Charles*
Eaton.

Booby Island, being of Such very Small extent, and having been passed by every Ship within hail that has made the Passage of Torres Strait, need not be Visited.

From an anchorage amongst the Possession Islands, the boats may trace the South Shore of Endeavour Strait as well as the Coast between Peaked Hill and Cape York; and thence the *Isabella* Should go to Mount Adolphus Bay, preparatory to her proceeding down the Coast to Sir Charles Hardy's Island, the boats making diligent search round the Island for portions of wreck.

To the South of Mount Adolphus, the wind will be probably Steady between S.E. and E.S.E., so that The Vessel will be obliged to turn to Windward, in doing which She will necessarily pass close to every Island and Shoal, by which a careful Search may be made.

Having accomplished the object of the Voyage or failed in discovering any traces of the lost people. Mr. Lewis Should return either by beating up against the trade Wind through the "Inner route," or by the passage round the West Coast, taking care to complete the Water before leaving the Coast. The Passage from Booby Island to Port Jackson by the Western route will occupy at least 9 weeks. By ascertaining the Capabilities of the Vessel on the passage from Cape York to Sir Charles Hardy's Island, he will be enabled to calculate the length of time he will be beating up the Coast to Breaksea Spit.

On his return, he might of course Call at Moreton Bay, or, if he return by the Western route, he might Call at King George's Sound, to replenish, if necessary, his water and Fuel.

26 May, 1836.

PHILLIP P. KING, Captn., R.N.

SIR RICHARD BOURKE TO LORD GLENELG.

(Despatch No. 60, per ship *William Inglis*; acknowledged by lord Glenelg, 30th April, 1837.)

10 June.

My Lord,

Government House, 10 June, 1836.

Papers
submitted to
legislative
council.

Consideration
of estimates
postponed.

I take the opportunity of a vessel now leaving this Port for London to inform Your Lordship that the usual Session of the Legislative Council of the Colony commenced on the 2nd inst., and transmit printed copies* of the address which I then read, of the abstracts of Revenue and Expenditure for the past year, and of some other Papers laid on the Council Table. The Several Bills presented have been passed, and I have adjourned the Council to the 28th inst., being desirous of deferring the consideration of the Estimates for the ensuing year to the latest period, which His Majesty's Instructions allow, in the hope of receiving Your Lordship's reply to my communication of 12 August, 1835, No. 79, upon the subject of the charge on the Colonial Treasury for Police and Gaols. Amongst the printed Papers, Your Lordship will perceive one containing the opinions of the Judges and Law Officers on the general propriety of

* Note 126.

verdicts returned by Juries of Civil Inhabitants. The letter of Mr. Justice Burton has not been previously laid before Your Lordship, not having reached me until some time after I forwarded my despatch of the 13 April last, No. 45.

1836.
10 June.

Mr. Burton, as will be perceived on perusing his letter,* has avoided giving a direct answer to the simple question propounded to him by the Colonial Secretary, viz., whether, as far as his knowledge extended, the verdicts of Civil Juries had in point of fact answered the ends of Justice. He enquires indeed at great length into the materials of which Juries have been composed, and the theory of their Institution, and narrates, chiefly on the authority of private conversations, several circumstances tending to throw a doubt on the integrity of Juries in certain cases tried before him. Without meaning the slightest disrespect to Mr. Burton, it is evident that the explicit and unanimous statements of his Brother Judges and the Law Officers in favor of the practical working of the system, even under all the disadvantages it has hitherto encountered, cannot be shaken by these indecisive questionings and vague aspersions. Respecting one of the cases, which Mr. Burton adverts to as indicative of an improper bias on the part of the Jury, the Attorney General stated in Council additional facts, which escaped the notice of the Judge and which completely disproved the existence of any such feeling. Many of Mr. Burton's other statements may, from the very vague nature of the evidence on which he has relied, be susceptible of similar explanation; whilst the facility with which he would admit those private Reports for the purpose, it would seem, of disqualifying a large body of Persons for the exercise of a Civil right may be attributed to the gloomy, if not morose view of Colonial Affairs which Mr. Burton has latterly taken, and which was so apparent in his address† to a Petit Jury, to which I drew the attention of your Lordship in my despatch of the 18 Decr. last, No. 119. Even were all these private Reports incontrovertible in fact, they are but a few instances of such misapprehension or misconduct as sometimes occurs in those Countries, where Juries have been the longest established, and are to be considered as incidental to that mode of Trial. I cannot regard as of the slightest importance the enquiry upon which Mr. Burton has entered as to the relative numbers of Emancipists and Free Colonists on Juries, provided the verdicts be satisfactory. It is by this test that the propriety of the Jury Law of the Colony should be tried. Your Lordship will also recollect that no Person is legally admitted to the Jury Box in New S. Wales, who would not be admitted in England, as regards

Criticism of
letter from
W. W. Burton
re civil juries.

* Note 127.

† Note 62.

1836.
10 June.
Preparation
of jury lists.

his condition and character in Society. None but those whom the Magistrates consider to be of good fame and repute are to be left on the Lists. The pecuniary qualification is much higher here than in England. The right of challenge is the same. I may remark, however, that, in the Lists of the present year, which have been at the instance of the Government more carefully prepared by the Magistrates than heretofore, but 116 Emancipists are to be found on a List of nearly 800 Persons. What Mr. Burton's object may be in comparing the numbers, he has not fully explained; but I will beg leave to repeat the opinion, I have before had occasion to submit, that to exclude, if such be Mr. Burton's wish, those who are not excluded by English Law, and who enjoy in this Country a reputable character, would be a measure at once unjust and impolitic.

Renewal
of jury act.

Not having received any Instructions from His Majesty's Government on the subject of Juries, I have been obliged again to propose to the Legislative Council the renewal of the Act, which was prolonged in a similar manner and for the same reason during the session of 1835. The measure, being considered a temporary one, was carried without a division, though not without strong expressions of disapprobation from those Members who have previously opposed it. Their objections were, however, so decisively met by the acting Chief Justice and Attorney General that I could not but remark, before the Council rose, a striking abatement of the positive tone previously assumed by the objectors. I have indeed every reason to think that the nearly unanimous opinion of the Law Functionaries, together with the improvement of the Jury Lists, is rapidly moderating the hostility with which the introduction of Civil Juries on a British foundation has been hitherto regarded by a part of this community. I have no reason to think that their Establishment would be seriously impeded by any opposition that could exist in a future Legislative Council or Assembly. Yet I am not on this account the less desirous that the question be set at rest by British rather than by local authority. Feelings are excited by the agitation of the question within the Colony, which cannot fail to prove injurious, however unexceptionable the law that may be passed. A general measure, proceeding from the British Legislature and based on the principle of the English Jury Law, would, I doubt not, be received with satisfaction by the Community at large, and command the respectful acquiescence, even of those who have hitherto opposed the local law.

Diminution of
opposition to
civil juries.

Necessity for
decision by
English
parliament.

I have, &c.,

RICHD. BOURKE.

SIR RICHARD BOURKE TO LORD GLENELG.

(Despatch No. 61, per ship William Inglis; acknowledged by lord Glenelg, 1st December, 1836.)

1836.
11 June.

My Lord,

Government House, 11 June, 1836.

I have the honor to inform your Lordship that the Bishop of Australia arrived here on Thursday the 2nd inst., and was installed* at St. James's Church in this Town on the Sunday following. On looking over the Patent erecting the See, I perceived that the Charter instituting the Archdeaconry was revoked, and it appeared to me in consequence that Dr. Broughton could not legally take his seat in the Legislative Council under the terms of the King's Warrant, which grants a Seat to the Archdeacon of New South Wales for the time being. Having mentioned this to the Attorney General, who coincided with me, I directed the case to be laid before the Judges, whose opinion adverse to the Bishop's legal competency I have the honor to transmit.

Arrival and
installation
of bishop.Opinions
adverse to
seat for bishop
in council.

The Bishop of Australia has therefore not taken his seat in either Council; and, as his precedence in the Colony whilst the Archdeacon rested on his Station as Member of the Executive Council, I have given His Lordship the same precedence he formerly held, placing him after the Chief Justice and Officer of His Majesty's Land forces next in Command, which arrangement I hope His Majesty will be graciously pleased to confirm.

Precedence
granted to
bishop.

I have learned in conversation with the Bishop that your Lordship contemplated his remaining in the Council at least whilst it retained its present form. It is probable that, before Your Lordship can receive this communication, the arrangements for the formation of a new Legislative Body will have been completed. Should this not be the case, I would respectfully submit for consideration how very trifling will be the advantage to be gained by placing a dignitary of the Church of England in Council, as compared with the ill feeling which is created by the omission of the Clergy of all other forms of Christian worship. Amongst this People of mixed creeds, the vesting a Minister of one only with any power in the State has of late years been regarded with very great jealousy by all the rest; and, as there is little or nothing to be gained by it, I should think the present a most favorable conjunction for getting rid of the cause of strong and encreasing complaint. Upon the system proposed for the religious Instruction of this People, and now sanctioned by Your Lordship, everything relating to a decent provision for the Clergy of the principal denominations of Christians for the maintenance of due discipline in the several Churches and the support of their several places of worship has been fully

Objections to
seat for bishop
in legislature.

* Note 128.

1836.
11 June.

Objections to
seat for bishop
in legislature.

considered. It may be well therefore to leave the Ministers of Religion in this Colony to the duty of instructing their respective Flocks, for which all proper facilities are thus provided, and to remove them from the contention of political Assemblies, which, becoming by the force of opinion in this age more and more popular, are the less fitted for the presence of the Clergy.

I have, &c.,

RICHD. BOURKE.

[Enclosure.]

THE JUDGES OF THE SUPREME COURT TO COLONIAL SECRETARY
MACLEAY.

Sir,

Sydney, 6th June, 1836.

Opinion by
judges *re* right
of bishop to
seat in council.

We have the honor to acknowledge the receipt of your letter of the 4th instant, informing us that it being doubtful whether the Bishop of Australia, who heretofore took his Seat in the Legislative Council of the Colony as Archdeacon of New South Wales under the Provision of His Majesty's Warrant* of the 30th day of January, 1829, Can Continue to hold his Seat, the Patent appointing the Archdeaconry being Cancelled; and requesting, by the direction of The Governor that we would peruse the Bishop's Patent, and His Majesty's Warrant, referring to the 9th George IV, Cap. 83, and give His Excellency our opinion as to the competency of the Bishop to take his Seat in the Legislative Council.

In reply, we have the honor to state for the Information of His Excellency the Governor that we have perused and considered the above mentioned Documents, in connection with the Statute 9th Geo. IV, Cap. 83, and are of opinion that, as The King's Patent appointing an Archdeacon for New South Wales has been recalled and cancelled to all Intents and Purposes by the Letters Patent, dated 18th January, 1836, the Bishop of Australia is not legally competent as such to take his Seat in the Legislative Council by Virtue of The King's Warrant, dated 30th of January, 1829.

We have, &c.,

JAMES DOWLING, A.C.J.

W. W. BURTON.

JOHN KINCHELA, J.

SIR RICHARD BOURKE TO LORD GLENELG.

(Despatch No. 66, per ship William Inglis; acknowledged by lord Glenelg, 2nd January, 1837.)

My Lord,

Government House, 11 June, 1836.

Mr. Thomas Steele, the Agent of Messrs, Fairlie and Co., has lately informed me by letter, a copy of which is transmitted, that Mr. Robert Campbell, a Merchant in Sydney and Member of the Legislative Council, has received from this Government an over-payment of £2,000 upon an award of compensation made in his favor by the Lords of the Treasury in the year 1821. The overpayment appears to have been made by Sir Thomas Brisbane in 1825 upon a misconstruction of Lord Bathurst's Despatch of the 3d Janry., 1825, No. 6, Two Thousand

Alleged over-
payment on
award to
R. Campbell.

Pounds in Treasury Bills having been then paid to Mr. Campbell as well as the value of £2,000 in land and Stock, whereas the latter only was directed by Lord Bathurst, the former having been previously paid to Messrs. Fairlie in London under Mr. Campbell's Power of Attorney. Mr. R. Campbell appears to think that it was intended to grant him compensation to the amount of £8,000 instead of £4,000; but there is no document with this Government to establish such a conclusion. On the contrary, the evidence is all the other way. As there is doubtless some Record of the Transaction in the Colonial Office or Treasury, and Your Lordship may choose to enquire into the case, I shall beg the favor of Your Instructions, if any steps are to be taken here to recover the sum overpaid. I think it right to add that I am strongly impressed with the belief that Mr. Campbell will not pay unless by compulsion.

1836.
11 June.

Contention by
R. Campbell.

I have, &c.,

[Enclosure.]

RICHD. BOURKE.

[A copy of this letter is not available.]

SIR RICHARD BOURKE TO LORD GLENELG.
(Despatch No. 62, per ship William Inglis.)

My Lord,

Government House, 12 June, 1836.

12 June.

In obedience to the Royal Instructions I have the honor to transmit herewith descriptions* of the Hundreds and Parishes of the County of Cumberland in this Colony.

Hundreds and
parishes in
county of
Cumberland.

I have, &c.,

RICHD. BOURKE.

SIR RICHARD BOURKE TO LORD GLENELG.
(Despatch No. 63, per ship William Inglis.)

My Lord,

Government House, 13 June, 1836.

13 June.

Since reporting the Despatch of the Isabella Schooner to Torres Straits by my Communication of the 9th instant, I am enabled to add, for your Lordship's information, that the East India Company's Brig "Tigris," under command of Capt. Igglesden, is on her way to the same destination, whither she has been directed to proceed in search of the survivors of the Passengers and crew of the Charles Eaton by the Bengal Government. The Tigris entered this Port on the 11th inst. to obtain some supplies, and will in a few days follow the Isabella, by cooperating with which vessel I trust that she will materially assist the object of their united enterprize.

Brig *Tigris* to
search for
survivors from
barque *Charles
Eaton*.

I have, &c.,

RICHD. BOURKE.

* Note 130.

1836.
15 June.

SIR RICHARD BOURKE TO LORD GLENELG.

(Despatch No. 65, per ship William Inglis; acknowledged by
lord Glenelg, 15th November, 1837.)

My Lord, Government House, 15 June, 1836.

Referring to Your Lordship's Despatches No. 25, July 13, 1835, and No. 41, August 15, 1835, announcing the proposed changes in the Medical department of this Colony, I have the honor to state that, on the arrival of the Deputy Inspector General of Hospitals Thompson, I placed under his charge the Colonial Hospitals and directed his orders to be obeyed by the several Surgeons and Assistant Surgeons on the Colonial Establishment. The Appointment of Colonial Inspector, which is held by Dr. James Bowman, a Surgeon in the Royal Navy, has, since the arrival of the Deputy Inspector General, become unnecessary, and Dr. Bowman has been reported by that officer in his Return in the month of April last as having no duties to perform.

Reorganisation
of medical
department
under
J. V. Thompson.

Not having received any Instructions from Your Lordship for the disposal of Dr. Bowman, who holds His Majesty's Warrant as Principal Colonial Surgeon, I have not thought it right to remove his name from the Pay abstract, and he continues to draw a Consolidated Salary of £850 per annum.

Salary drawn
by J. Bowman.

The King's Warrant, to which I have referred, is dated the 27th February, 1819, and Dr. Bowman arrived here to discharge his duties in September of the same year. From the period of his arrival until 1827, he received Pay at £1 a day with a House and an allowance of Coals, and soon after his arrival forage for one Horse, which were calculated to raise the annual value of his appointment to £525 12s. 6d., and he continued to receive his Half-pay of 6s. a day as Surgeon of the Royal Navy. Upon the recommendation of a Board appointed by my Predecessor and with the sanction of the Secretary of State, the name of Dr. Bowman's employment was changed to that of Inspector of Colonial Hospitals, and his Salary with the use of an official Residence issued at £750 during the year 1828, His Half-pay having ceased, as I understand from the 1st January of that year. On the 1st Janry., 1829, the allowance of a House was withdrawn and his Salary fixed at £850.

Details *re*
colonial
employment of
J. Bowman.

Dr. Bowman has not applied to me for any gratuity or retiring allowance, but intimated that he proposed to lay his case before the Secretary of State through the medium of his Friends in England. I have therefore thought it right to bring the foregoing circumstances under Your Lordship's notice that no time may be lost in putting an end to the issue of so large a Salary as £850 per annum for an office, in which there is no duty to be

Reference
proposed by
J. Bowman to
England.

performed. As Dr. Bowman is permanently settled in this Colony, having received Grants of Land and purchased largely, and is not detained here by Government, I apprehend that whatever pay is issued to him from the arrival of the Deputy Inspector General should be carried to the account of his allowance on reduction, if any is to be made to an officer who returns to the half-pay List.

1836.
15 June.

Adjustment in allowance on reduction.

I have, &c.,

RICHD. BOURKE.

SIR RICHARD BOURKE TO LORD GLENELG.

(Despatch No. 67, per ship William Inglis; acknowledged by Lord Glenelg, 16th February, 1837.)

My Lord,

Government House, 17 June, 1836.

17 June.

A very useful Civil Officer, Mr. Fredk. Augustus Hely, the Principal Supt. of Convicts, has been in a dangerous state of health since the month of October last, and, from what I can learn, never likely to recover sufficiently to resume his duties. His disorder is apoplexy. Since the first of January last, the business of the Department has been conducted by Mr. Ryan Brenan, who receives half of the Salary of the office, the other moiety being still paid to Mr. Hely.

Illness of F. A. Hely.

J. R. Brenan acting as superintendent of convicts.

This Gentleman was appointed by the Secretary of State P. Supt. of Convicts on the 1 Janry., 1823, with a Salary and allowance amounting to £375 per annum. In 1827, the income of the office was raised to £550, and in 1828 reduced to £500, at which it continued until September, 1833, when, in consequence of an application which I made to the Secretary of State, it was raised to £600, at which it has since remained. Mr. Hely also received, between the 1 April, 1829, and 1 July, 1833, an additional Salary of £100 a year as Member of the Land and Assignment Boards. He has a wife and several children and has, I believe, no private fortune beyond a grant of 2,560 acres of Land in the Colony, to which he has been able to make some additions by purchase. He is naturally desirous of retaining office as long as he can, or of obtaining a retiring allowance. To the latter, he has perhaps no claim by Law or Regulation; but, in consideration of the zeal and ability with which he discharged the duties of his office whilst his health permitted the exertion, I venture to ask permission to recommend him to the Council for a Pension of £200 a year to commence from the 1st of January next, if by that time he should be unable to resume business.

Details re F. A. Hely.

Pension proposed for F. A. Hely.

Mr. Ryan Brenan will have no objection to continue in charge of the office at half Salary until that time. This Gentleman came out here in 1834, and was the bearer of an introductory Letter from Lord Goderich, in which His Lordship expressed

Arrival in colony of J. R. Brenan.

1836.
17 June.

Recommendation of R. Brenan for office of superintendent of convicts.

his desire that Mr. Brenan should obtain from me a suitable Colonial appointment, and promised to confirm it. Mr. R. Brenan then looked to the appointment of Crown Solicitor, which was shortly after conferred by Mr. Secretary Spring Rice on Mr. Fisher, who now holds it. The P. Supt. of Convicts' office is the only one of any considerable emolument, which has appeared open to Mr. Brenan since the receipt of Lord Goderich's Instructions. I am fully satisfied with the manner in which he has discharged the duties, and shall be happy to receive your Lordship's Commands to place him in possession of it, if Mr. Hely, as is but too probable, should continue unable to return to it.

I have, &c.,

RICHD. BOURKE.

[Enclosure.]

VISCOUNT GODERICH TO SIR RICHARD BOURKE.

Dear Sir,

Colonial Office, one February, 1833.

In an enclosed paper you will see that, on Mr. Spring Rice's recommendation, I authorised Lord Howick some time ago to make a recommendation to you of a Gentleman, who is, I believe, well known to you, and who has been, subsequently to the date of that letter, recommended again to me by Mr. Rice, as well as by Lord Anglesey. In consequence of these repeated letters, I am now induced to say that I shall be glad if I find myself called upon by you to confirm any appointment of him, which you may believe him capable of discharging with advantage to the interests of His Majesty's Service.

I have, &c.,

GODERICH.

[Sub-enclosure No. 1.]

VISCOUNT HOWICK TO SIR RICHARD BOURKE.

Dear Sir,

Downing Street, 20th July, 1831.

In consequence of the accompanying letter from Mr. Spring Rice, addressed to Lord Goderich, his Lordship has directed me to bring the name of Mr. J. Ryan Brennan under your favorable notice, with the request that you will afford him any assistance in accomplishing his views which may be in your power.

I remain, &c.,

HOWICK.

[Sub-enclosure No. 2.]

RIGHT HON. T. SPRING RICE TO VISCOUNT GODERICH.

My Dear Lord,

Treasury Chambers, 20th July, 1831.

There is a most respectable gentleman for whom I feel a very strong regard, who is going out as a settler to New South Wales. His name is Mr. J. Ryan Brennan. He takes out capital to the extent of £2,000 and means to establish himself there as an Attorney, having been brought up, and having long practised in that profession. He will be in point of fact a very great acquisition to the Colony. Will your Lordship allow me to ask a letter of recommendation for him to General Bourke? The acquisition of a well educated and well principled professional man of independent circumstances is of some importance to the Colonial Courts at Sydney.

Always, &c.,

T. S. RICE.

Recommendation of J. R. Brenan for employment.

SIR RICHARD BOURKE TO LORD GLENELG.

(Despatch No. 68, per ship William Inglis; acknowledged by lord Glenelg, 31st December, 1836.)

1836.
17 June.

My Lord, Government House, 17 June, 1836.

I have the honor to transmit, pursuant to Regulation, a Memorial addressed to Your Lordship by Mr. W. Mann.

Transmission of memorial from W. Mann.

As the transaction to which it relates did not take place in this Colony, I am unable to accompany it with any observations.

I have, &c.,

RICHD. BOURKE.

[Enclosure.]

[A copy of this memorial is not available.]

LORD GLENELG TO SIR RICHARD BOURKE.

(Despatch No. 167, per ship Lady Kennaway.)

Sir, Downing Street, 18 June, 1836.

18 June.

I have received your Despatch No. 121 of the 21st December last, enclosing a copy of a Letter which you have received from Colonel Arthur, respecting an application from Mr. Batman for assistance and protection from the Colonial Authorities.

Despatch acknowledged.

In my Despatch No. 142 of the 13th April last, I have so fully communicated to you my sentiments in regard to the measures, which it will be proper to adopt in consequence of the proceedings of the Parties who have formed Settlements at Port Philip and in its vicinity, that it is unnecessary for me to do more than to refer you to that Despatch as containing the only answer, which your present communication appears to require.

Previous instructions re settlement at Port Phillip.

I am, &c.,

GLENELG.

SIR RICHARD BOURKE TO LORD GLENELG.

(Despatch No. 69, per ship William Inglis; acknowledged by lord Glenelg, 1st December, 1836.)

My Lord, Government House, 18 June, 1836.

Since my despatch of the 11 inst., No. 61, was closed, I received from the Bishop of Australia the letter addressed to Your Lordship, which I have the honor to transmit. I have at the same time to acknowledge the receipt of Your Lordship's despatch of the 21 December last, No. 88, by the Strathfieldsay, which did not arrive here until the 15th instant. By that Despatch, as well as from the conversation with the Bishop of Australia to which I have alluded, it is clear Your Lordship

Transmission of letter from bishop.

Despatch acknowledged.

1836.
18 June.

Problem of seat
for bishop in
council.

contemplated the continuance of Dr. Broughton in the Council as Bishop, until the proper Instrument is forwarded to the Colony; this intention can not, as appears by the opinion of the Judges, be fulfilled. But, previously to such a measure being taken, Your Lordship will, I trust, give full consideration to the observations I have made in my Despatch of the 11th inst., the propriety of which is not to my mind rendered doubtful by anything contained in the letter from the Bishop which I now forward.

I have, &c.,

RICHD. BOURKE.

[Enclosure.]

[A copy of this letter, dated 16th June, 1836, is not available.]

LORD GLENELG TO SIR RICHARD BOURKE.
(Despatch No. 170, per ship Bengal Merchant.)

21 June.

Sir,

Downing Street, 21st June, 1836.

Transmission of
memorial from
A. Birrell.

I transmit to you herewith a copy of a Memorial, which I have received from Mr. Andrew Birrell of Launceston in Van Dieman's Land, praying for a Grant of Land at Port Philip. As I have already communicated to you the views of His Majesty's Government with regard to the Settlement of that District, I have only now to refer Mr. Birrell's application to you to be dealt with in the same manner as other applications of the same nature.

I am, &c.,

GLENELG.

[Enclosure.]

Memorial from
A. Birrell
soliciting land
grant at Port
Phillip.

THE humble Petition of Andrew Birrell, of Launceston, in the Co. of Cornwall, V. D. Land.

HUMBLY sheweth,

That your Petr. has been a Settler in V. D. Land for 15 years, is a married man, and has a growing family of Male and Female children.

That Petr. has, during a great portion of that time, devoted his time to agricultural pursuits, grazing, and rearing of Stock of every description.

That your Petr. is, both from inclination and ability, particularly adapted to become a successful Settler in any new established Settlement, and feels confident, should the prayer of his Petition be granted, to promote his family's interest and welfare and that of those he may employ in his Establishment.

That, for a considerable time back, numbers of individuals have emigrated from hence and conveyed large quantities of Sheep and Cattle to Port Philip, a new Settlement on the opposite side of Bass' Straits on the Coast of New Holland, and, by means of a Treaty or Contract with the Aboriginal Natives, have obtained possession of large Tracts of Land in that neighbourhood.

That it never entered into Petr.'s views to enter into any Bargain with the aboriginal Natives for the purchase of any Land, conceiving that such Contract would have interfered with the Prerogative of H.B.M.'s Govt.

1836.
21 June.

Memorial from A. Birrell soliciting land grant at Port Phillip.

Your Petr. therefore humbly trusts and prays that H.M. Govt. will be pleased to allow 5,000 acres (or such quantity as may be deemed sufficient) of Land to be located for Petr. in such place in the neighbourhood of Port Phillip as Petr. may select.

And Petr. will ever pray, etca., ANDW. BIRRELL.

SIR RICHARD BOURKE TO LORD GLENELG.

(Despatch No. 70, per ship Abel Gower; acknowledged by lord Glenelg, 10th December, 1836.)

My Lord, Government House, 1 July, 1836.

1 July.

Pursuant to Regulation, I have the honor to transmit a Letter which has been addressed to Your Lordship by Mr. Thomas Cudbert Harington, who has been for several years employed in the office of the Colonial Secretary in Sydney under the authority of Lord Goderich's Despatch dated 16 June, 1827. Mr. Harington prefers a claim to the appointment of Colonial Secretary in the event of Mr. McLeay's resignation on the ground of his services in the capacity of Assistant Colonial Secretary. Although I cannot suppose it likely that such an employment could of itself entitle Mr. Harington to succeed to the superior appointment which he now seeks, it is proper to mention that, by the Despatch of Lord Goderich before referred to, the designation of Assistant Colonial Secretary was expressly withheld. Finding it, however, in use on my arrival here, I did not think it necessary to direct its discontinuance.

Transmission of letter from T. C. Harington.

Claim for appointment as colonial secretary.

I have further to observe that Mr. Harington, being one of those Civil Officers who lately sent through me a Memorial addressed to Your Lordship on the subject of the omission of their names in the last Commission of the Peace, I can not consider him as deserving of any favor from His Majesty's Government.

Opinion adverse to T. C. Harington.

I have, &c.,
RICHD. BOURKE.

[Enclosure.]

[A copy of this letter is not available.]

SIR RICHARD BOURKE TO LORD GLENELG.

(Despatch No. 71, per ship Abel Gower; acknowledged by lord Glenelg, 5th December, 1836.)

My Lord, Government House, 5 July, 1836.

5 July.

In conformity to Regulation, I have the honor to forward a Memorial addressed to Your Lordship by Mr. William Cape, a Settler in this Colony, complaining that Land to which he lays

Transmission of memorial from W. Cape.

1836.
5 July.

Transmission
of memorial
from W. Cape.

claim has been granted, under authority of my Predecessor in this Government, to another Person.

The Grant objected to was issued after a full investigation of the case by the Commissioners appointed to report on disputed claims, and the accompanying Memorial does not appear to me to contain anything which calls for further enquiry.

I have, &c.,

RICHD. BOURKE.

[Enclosure.]

[A copy of this memorial is not available.]

LORD GLENELG TO SIR RICHARD BOURKE.

(Despatch marked "Separate," per ship Bengal Merchant.)

7 July.

Sir,

Colonial Office, 7 July, 1836.

Letter of
introduction for
A. Broune.

This Letter will be presented to you by Mr. Arthur Broune, who is proceeding as a Settler to New South Wales. He is represented by a Member of my Office to be a Gentleman of extreme respectability, and I therefore beg leave to recommend him to your protection, though at the same time I desire it may be distinctly understood I do not design by this introduction to fetter your discretion as to the Selection of Candidates for employment in the Public Service.

I have, &c.,

GLENELG.

SIR RICHARD BOURKE TO LORD GLENELG.

(Despatch No. 73, per ship Abel Gower; acknowledged by lord Glenelg, 28th December, 1836.)

15 July.

My Lord,

Government House, 15 July, 1836.

Claim by
T. P. Macqueen
to land grant.

I have the honor to forward a Letter addressed to Your Lordship by Mr. T. Potter Macqueen, praying that he may be allowed to receive a grant of certain specified Land in the neighbourhood of his Estate at Hunter's River, as compensation for an allotment of Land in Sydney Harbour, to which he considers that he has a claim by virtue of a promise alleged to have been made to him by Lord Bathurst but never fulfilled.

This claim has already been so frequent a subject of correspondence between Mr. Macqueen and the Colonial Office that I can add nothing to the facts which have been already elicited.

I have, &c.,

RICHD. BOURKE.

[Enclosure.]

[A copy of this letter is not available.]

LORD GLENELG TO SIR RICHARD BOURKE.
(Despatch No. 176, per ship Bengal Merchant.)

1836.
16 July.

Sir, Downing Street, 16 July, 1836.

I have the honor to transmit to you, for your information and guidance, the enclosed copy of a letter from the Secretary to the Treasury, together with a Report of the Board of Audit, on the subject of the unclaimed effects of Convicts dying on the Voyage to New South Wales, or after their arrival there, and I have to desire that you will carry into effect the suggestions of the Lords Commissioners of the Treasury on this subject.

Instructions re
unclaimed
effects of
deceased
convicts.

I am, &c.,
GLENELG.

[Enclosure.]

MR. A. Y. SPEARMAN TO UNDER SECRETARY STEPHEN.

Sir, Treasury Chambers, 15 July, 1836.

I am commanded by the Lords Comrs. of H.M. Treasury to transmit to you the enclosed copy of a letter from the Comrs. of Audit, dated the 22d Ult., respecting the disposal of the proceeds of the Effects of Convicts at N. S. Wales and V. D. Land, in order that it may be submitted to Lord Glenelg; and I am to request that, in so doing, you will state to his Lordship that my Lords concur in opinion with the Comrs. of Audit, that the monies therein referred to should be remitted to this Country, to be disposed of in the manner pointed out by the Comrs., and my Lords would accordingly recommend that Instructions should be forwarded to the Govrs. of N. S. Wales and V. D. Land to cause Statements of all Proceeds of Convicts' Effects, remaining deposited in the Treasuries of the respective Colonies, to be prepared and forwarded to this Country with any Documents or explanations that may be applicable to the several cases, and at the same time to remit the amount of the deposits to the Agent Genl. for the Colonies, in order that such directions may be given relating thereto as may be deemed proper by the Secretary of State and my Lords' Board.

I am, &c.,
A. Y. SPEARMAN.

[Sub-enclosure.]

AUDIT COMMISSIONERS TO LORDS COMMISSIONERS OF TREASURY.

My Lords, Audit Office, 22d June, 1836.

We beg leave to represent to your Lordships that it appears, on the examination of the Accounts of the Treasurer of N. S. Wales, that for some years past small sums are occasionally brought to credit in respect of proceeds of the effects of Convicts, who have either died on their passage out or since their arrival in the Colony, wh. are paid into the Colonial Chest, with a view as it is stated of their being remitted to the Agent in London for the purpose of being paid over to the Representatives of the Party.

The sums in question are not, however, in the first instance remitted to the Agent; but notice of their having been received

1836.
16 July.
—
Instructions *re*
unclaimed
effects of
deceased
convicts.

is given to Mr. Barnard, that he may be aware of the circumstance in case any application should be made to him by the persons entitled to such Proceeds. There are few instances of any such applications having been made, and the sums paid into the Colonial Chest therefore generally remain deposited there. We have now 4 such cases before us, in respect of proceeds of Convicts' Effects, lodged in the Colonial Chest at N. S. Wales in the years 1828, '29 and '30, and not paid to the Representatives of the parties; and, altho' the amount of the whole does not exceed £45, it appears to us that these Monies, when not paid over to the parties entitled to them, ought not to be applied to Colonial purposes.

We do not think it necessary to enter into the question, whether Convicts can in strictness legally acquire property, as We find by the Accounts that practically they do so in various ways, and that Salaries, Wages and occasionally Rewards are paid to them; but it appears to us that proceeds of Effects of deceased Convicts ought, when received into the Colonial Chest, to be remitted home and placed to the account of some fund applicable to the Convict Estabts.

We apprehend that Mr. Capper, the Agent for Convicts, would be the most proper person to take charge of such monies, wh. he could hold until the same were claimed by the Representatives of the parties, and that the accounts and documents relating to each case should be delivered to him in order that he may be able to give information to Applicants, and to report to your Lordships, when called upon, in consequence of any such applications being made. If your Lordships should concur in this suggestion, We beg leave to recommend that directions be given to the Govrs. of N. S. Wales and V. D. Land to remit to the Colonial Agent the whole of the proceeds of Convicts' Effects now remaining in the Colonial Chests, and to transmit to him at the same time the whole of the papers applicable to each case, and that the same course be pursued in future with regard to all Monies of the same description which may be deposited in the Chests of the above Colonies. The Colonial Agent, on the receipt of such Remittances, should pay over the amount to Mr. Capper, and include such receipts and payments in his Accounts with the Public.

We have, &c.

F. S. LARPENT.
H. F. LUTTRELL.
J. OSBORN.

SIR RICHARD BOURKE TO LORD GLENELG.

(Despatch No. 74, per ship Abel Gower; acknowledged by lord Glenelg, 5th January, 1837.)

My Lord,

Government House, 20 July, 1836.

In my Despatch of the 28th February last, No. 27, I stated my opinion that the Legislative Council would readily consent to allow Captn. Barney, Commg. Royal Engineer, £500 a year from the Colonial Treasury in order to obtain his services in

20 July.

Salary voted
for G. Barney
as colonial
engineer.

the capacity of Colonial Engineer. I have now the honor to inform Your Lordship that the Council have appropriated this amount at their present Session, payable from the 1st of January last, as proposed in my Despatch before referred to, and that Your Lordship's approval is now alone required to perfect the arrangement.

1836.
20 July.

Salary voted
for G. Barney
as colonial
engineer.

I have, &c.,

RICHD. BOURKE.

SIR RICHARD BOURKE TO LORD GLENELG.

(Despatch No. 75, per ship Abel Gower.)

My Lord,

Government House, 21 July, 1836.

21 July.

The Revd. Dr. Lang, a Minister of the Scots Church in this Colony, having made an application to me for leave to proceed to England, so urgently pressed that he declared his intention of making an unconditional surrender of his employment, if he were refused, I have granted him the permission he desired upon condition of his providing for the discharge of his duties by a Clergyman to be approved by the Presbytery. I have at the same time informed him that, the Secretary of State having upon a former occasion disapproved of his frequent absences from his spiritual charge, I could not under the circumstances allow of the issue of half salary on his account, but that, on leaving England, he must take Your Lordship's commands on the subject.

Leave of
absence granted
to Revd.
J. D. Lang.

The object of Dr. Lang's voyage is represented to be the selection of Ministers for the Colonial Scots Church, which he states to be in a declining condition from the misconduct of its clergy. Dr. Lang has, however, been informed that the selection should be made by the Presbytery of New South Wales; and it is right to make known to Your Lordship that Dr. Lang and this Presbytery are at variance, and that the latter would by no means consent to leave the choice of Ministers in his hands.

Object of visit
to England.

I have, &c.,

RICHD. BOURKE.

LORD GLENELG TO SIR RICHARD BOURKE.

(Despatch No. 177, per ship Bengal Merchant.)

Sir,

Downing Street, 22d July, 1836.

22 July.

I have to request that you will inform Colonel Dumaresq that I have received his letter of the 22d February last, in which he renews his claim to be admitted to the benefits enjoyed by

1836.
22 July.

Refusal of
claims for
land by
H. Dumaresq.

Military Officers on their becoming Settlers in New South Wales; and that I do not perceive, in his present statement, any grounds for departing from the decision on his claim which has already been communicated to him.

With respect to the application which Colonel Dumaresq has made for additional Land to make up the "Grant" he received to the Maximum fixed by the late Regulations, the same reasons, which prevented the compliance with Colonel Dumaresq's first application, equally preclude me from acceding to the second. You will, therefore, have the goodness to inform Colonel Dumaresq, that I cannot consent to his receiving more Land on any other terms than those prescribed by the existing Regulations.

I am, &c.,

GLENELG.

SIR RICHARD BOURKE TO LORD GLENELG.

(Despatch No. 76, per ship Abel Gower; acknowledged by
lord Glenelg, 28th December, 1836.)

My Lord,

Government House, 22 July, 1836.

Request
by Revd.
J. D. Lang for
land grant for
Scots church.

At the request of the Revd. Dr. Lang, a Minister of the Church of Scotland in this Colony, I have the honor to transmit the accompanying Letter addressed by him to Your Lordship. The object of this letter is to obtain from this Government for a Scots Church in Sydney a grant of Land equal in value to a portion given up by the Trustees of the Scots Church under the provisions of an act* of the Colonial Legislature for the use of the Australian College. An application to this effect was made to me in the year 1833, but refused on the ground that, when a loan of £3,500 from the Colonial Treasury was made by the direction of the Secretary of State in aid of the Establishment of the College, it was distinctly stated that the Buildings were to be erected on Land to be given up to the Scots Church for the purpose.

I have, &c.,

RICHD. BOURKE.

[Enclosure.]

[A copy of this letter is not available.]

SIR RICHARD BOURKE TO LORD GLENELG.

(Despatch No. 77, per ship Abel Gower.)

My Lord,

Government House, 23 July, 1836.

23 July.
Proposed
shipment
of organ for
R.C. chapel.

I am informed by the Revd. Dr. Polding that it is intended on the part of the Roman Catholics of this Colony to apply to Your Lordship through their friends in London for permission to

import hither in one or more Convict Ships an organ for the Chapel belonging to that Community in Sydney. A similar privilege having been lately accorded in more than one instance to the Church of England, Your Lordship will, I think, agree with me in regarding this request of the Catholics in a favorable light, and be induced to accede to it. I have, &c.,

RICHD. BOURKE.

1836.
23 July.

Proposed
shipment
of organ for
R.C. chapel.

SIR RICHARD BOURKE TO LORD GLENELG.

(Despatch No. 78, per ship Abel Gower.)

My Lord,

Government House, 24 July, 1836.

24 July.

The Rt. Revd. Dr. Polding having represented to me the immediate necessity of obtaining the services of an additional number of Roman Catholic Priests to dispense the ordinances of Religion to the numerous Settlers and Convicts of that Creed scattered over the great extent of this Colony, and being apprehensive that no proper selection could be made by any one not well acquainted with the peculiar circumstances of the Country, I gave at his request leave of absence to the Revd. Mr. Ullathorne to proceed to England for the purpose. This Gentleman sailed from V. D.'s Land, where he had been on duty, in the Ship "Eldon" about six weeks ago. He is to report himself at the Colonial Office and to request Your Lordship's permission for the issue of his half-Salary by the agent during the period of his stay in England. I beg leave to recommend him for this indulgence, having every reason to be satisfied with the zeal and intelligence displayed by this pious and enlightened Ecclesiastic in the discharge of his Clerical functions.

Leave of
absence
for Revd.
W. Ullathorne
to visit
England to
select chaplains.

I should add that the Legislative Council have appropriated £900 for Stipends to additional Roman Catholic Priests for the year 1837.

Appropriation
for stipends of
R.C. clergy.

I have, &c.,

RICHD. BOURKE.

SIR RICHARD BOURKE TO LORD GLENELG.

(Despatch No. 79, per ship Abel Gower; acknowledged by lord Glenelg, 7th February, 1837.)

My Lord,

Government House, 25 July, 1836.

25 July.

I have the honor to inform your Lordship that I have given Mr. R. Dixon, a Surveyor in the employment of this Government, leave to proceed to England on urgent private affairs. Mr. Dixon has been informed of the condition upon which the Secretary of State for the Colonies has allowed leave of absence to be granted to officers of the Surveyor General's Department in New

Leave of
absence granted
to R. Dixon.

1836.
25 July.

South Wales, and that, upon his leaving the Colony, he will be considered as having resigned his appointment.

Intended
application
by R. Dixon.

As, however, Mr. Dixon proposes to apply to Your Lordship to be allowed to return to the Colony with the rank and emoluments he now enjoys, he has requested me to make known to Your Lordship the opinion which the Head of the Department entertains of him. Having in accordance with this request desired the D. Sur. Genl. to report on Mr. Dixon's conduct whilst in employment here, I feel happy in having to transmit the favorable account contained in that Officer's Reply.

I have, &c.,

RICHD. BOURKE.

[Enclosure.]

DEP. SURVEYOR-GENERAL PERRY TO COLONIAL SECRETARY MACLEAY.

Sir,

Surveyor General's Office, 18th July, 1836.

Testimony
to services
of R. Dixon.

In attention to your letter of 11th Instant No. 36/578 referring to the application of Mr. Dixon herewith returned for leave of absence to proceed to England, I have the honor to report to you, for the information of His Excellency The Governor, that Mr. Dixon has served in this Department nearly Ten years, during which time he has been employed in many very important Surveys, and I have much pleasure in adding that (as far as my observation goes) he has performed all the duties with which he has been entrusted in a manner satisfactory to the public and to the head of this Department, as well as highly creditable to himself. Enclosed is a detailed statement of services, which I trust will be sufficient to ensure him His Excellency's favorable consideration of his case.

I have, &c.,

In absence of the Surv. General.

S. A. PERRY, Dy. Sr. Gl.

[Sub-enclosure.]

MR. R. DIXON TO SURVEYOR-GENERAL MITCHELL.

Sir,

Sydney, 18th July, 1836.

Statement
of services
by R. Dixon.

With reference to your memo. of 15th Inst. requesting to know the date of my appointment, also the several general instructions received by me, and the nature of the duties consequent thereon, in order to enable you to reply to the Colonial Secretary's letter No. 36/578, I have the honor to inform you that I joined the Surveyor General's department as Assistant Surveyor in September, 1826.

My first employment was about Sydney and its environs, after which I proceeded to Illawarra in an open Boat and surveyed the Coast from thence to Botany Bay, taking up Port Hackery, the Southern Shores Botany Bay, George's River and its branches. I was then ordered to survey the unmeasured grants in the Cowpastures, and to extend the survey to Burragorang, Werraberri Creek, the Notai River, part of Coxes river, the Warragumba and the Wollondilly to Goulburn Plains, which I accordingly did; this includes the principal duties performed under Mr. Oxley.

My next instructions were from Major Mitchell to join him in the Trigonometrical Survey of the Colony, when I accompanied him over the Southern districts on that duty and have since extended angles over the whole Colony.

1836.
25 July.

Statement
of services
by R. Dixon.

In the interim, I completed the trace of the principal features South and South West of Goulburn Plains, including Lakes Bathurst and George, the Molonglo River, part of Murrumbidgee, the Yass River, Narrawa and Lachlan Rivers, and several of their branches, as well as the dividing range from Burrah Burrah to Lake George, and also a great many Grants in the Southern Counties.

My next movements were in the Western Districts, where I completed a detailed survey of the whole Mass of broken country between Mount Victoria and Bathurst, previously to Major Mitchell's laying out the new line of road between these points; after which I was engaged in measuring grants in that neighbourhood and on the Lachlan River, etc. These were the principal instructions received and duties performed by me up to the beginning of the year 1831; but there were many works of minor importance, particularly farms in the County of Cumberland, etc.

In the year 1831, I received instructions to proceed to the Upper Hunter River districts for the purpose of laying down the principal features in the North West Districts. I commenced by measuring a Base line on Liverpool Plains of three miles in length, from which I fixed the principal heights in that part of the Colony, and was enabled to connect these points with the former Trigonometrical Survey. I then traced the whole of the dividing range from the head of the Coolahburragundy Stream to Mount Royal, and thence to Mount Arthur. I then took up the survey from the head of Page's River across Liverpool Plains to Peel's River, shewing the courses of the principal Ranges and Streams in that country; after which, I laid down the Whole of the Upper Hunter's River from its confluence with the Goulburn to its source, including its several branches, the Page, Kingdown Ponds, Dart Brook, with many minor tributaries and a great number of Grants and purchases thereon. I also completed a detailed survey of the country between Patrick's Plains and Muscle Brook, likewise between Lemmington and Muscle Brook, shewing the old lines of road between those points previously to the Surveyor Generals making the new line of road from Lemmington to Muscle Brook, which line I have since surveyed. I was then engaged in the survey of the principal streams in the Counties Brisbane and Bligh, viz., the Wybong, Gungal, Gummum, Bogibri, Krui, Mummurra, Talbragar and Coolahburragundy, with the whole of the Grants and purchase on those Streams with a few exceptions.

In the Month of October, 1833, I received Instructions from Major Mitchell when at Maitland to go to Wellington Valley with my equipment and from thence to explore the unknown country laying to the West, which I accordingly did, and reached the Bogan, followed many miles down that river, and returned to Wellington Valley after having travelled upwards of six hundred miles since my departure from that station. I then came to Sydney for the purpose of refitting my equipment.

In the Month of May, 1834, I left Sydney for Upper Hunter's River, where I have been employed principally in the measurement

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25 July.

Statement
of services
by R. Dixon.

of lands for sale, and have surveyed since that date Two hundred and forty six thousand, eight hundred and ninety Acres of Land. I have also traced the river Isis, and marked and surveyed a new line of road from Muscle Brook to Liverpool Plains with many other surveys, and, since the period of my appointment, I have not had more than two months' leave of absence from duty.

Want of time will not allow me to refer to the exact date when I performed the several duties alluded to or received instructions for so doing.

I have, &c.,

R. DIXON, Asst. Surv.

SIR RICHARD BOURKE TO LORD GLENELG.

(Despatch No. 81, per ship Abel Gower.)

My Lord,

Government House, 25 July, 1836.

Transmission of
petitions with
signatures.

I have the honor to transmit Copies, with the signatures, of Petitions* to the King and House of Commons, which I had the honor to bring before Your Lordship in my Despatch of the 13th April last, No. 45. They are there marked by the letter A to distinguish them from a Counter Petition, marked B, of which a copy was also transmitted with that Despatch. The copies now sent have just been received from a Committee of the Petitioners, who have, I believe, entrusted the originals to the care of one of their body, Mr. James Macarthur of Camden, who is about to proceed to England.

Signatures to
petitions and
counter
petition.

If public opinion is to be judged of by a comparison of the number of signatures attached to Petitions of an opposite tendency, the Counter Petition,* which is to be presented to the House of Commons by Mr. Bulwer, must be declared to speak the sentiments of the People of New South Wales. It reckons, as I am informed, nearly six thousand signatures, whilst those, which I now transmit, do not count four hundred. It can not, I believe, be denied that a vast majority of the Colonists, capable of forming sound opinions, desire the Establishment of Trial by Jury and a Legislature, either wholly or in part representative. I need not trouble Your Lordship by reporting my opinions on these subjects, nor the observations on the Petitions which I had occasion to make in the Despatch before referred to. I will merely add here that, with respect to the address of Mr. Justice Burton upon which the Petitions marked A rely for establishing the fact that crime has greatly increased in the Colony, the learned Judge himself did not propose to make any such assertion. In a letter written to me on the 14th April last, he states, "I deny in the most unqualified manner having upon any occasion, either in public or private, expressed an opinion that there has been an encrease of crime in this Colony, either actual or

Public opinion
re trial by jury
and legislature.

Denial of
opinion by
W. W. Burton
re increase of
crime.

proportionate. I have never formed any opinion on the subject. I have never had the proper data before me for forming it; and I have never even sought for such data. Once only has the subject been before me at all, and that was to obtain extracts for you from the Records of the Supreme Court for a given period, which shewed that, as far as related to cases before that Court, they proved the contrary."

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Denial of opinion by W. W. Burton re increase of crime.

I have ventured to trouble Your Lordship with the foregoing Extract to deprive the Petitioners of the advantage they hoped to derive from the address in casting a slur upon this Government. Such was doubtless the intention of some of its originators in bringing the matter so prominently forward. It is to be expected that, in a Community which receives offenders, there must be a much greater proportion of crime than in the countries from whence the offenders are expelled. But it does not exist to that extent, which would justify the British Parliament in with-holding from the Colonists fuller participation in the free Institutions of England, nor is the local Government censurable because the amount is not less considerable.

Proportion of crime in colony.

I have, &c.,

RICHD. BOURKE

[Enclosures.]

[Copies of these petitions,* as transmitted, are not available.]

SIR RICHARD BOURKE TO LORD GLENELG.

(Despatch marked "Separate and Confidential," per ship Abel Gower; acknowledged by lord Glenelg. 10th December, 1836.)

My Lord,

Govt. House, Sydney, 25 July, 1836.

With reference to my despatch of the 11 ulto. No. 61, I have the honor to inform Your Lordship that some proceedings, in wh. the Bishop of Australia is now engaged for the purpose of defeating the wishes of His Majesty's Government and of this Government in the Establishment of National Schools, afford additional reasons against placing this Prelate in any of the Colonial Councils; and I would therefore earnestly recommend that Your Lordship abstain from taking any step in the matter, until I shall have fully communicated the nature and result of the objectionable Proceedings to which I allude.

Objections to bishop of Australia as member of councils.

I avail myself of a ship now proceeding to England to forward this Despatch, proposing by the next that shall offer to furnish more complete information.†

I have, &c.,

RICHD. BOURKE.

* Note 132.

† Note 133.

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SIR RICHARD BOURKE TO LORD GLENELG.

(Despatch No. 82, per ship Abel Gower; acknowledged by
lord Glenelg, 30th April, 1837.)

My Lord, Government House, 25 July, 1836.

I avail myself of the opportunity of a Ship now proceeding to England to transmit the printed Estimates for the next year, and an explanatory minute. They are now under the consideration of the Legislative Council. The sums required for the Police and Gaol Establishments have been appropriated by a Resolution passed the 23rd instant without a division.

I have, &c.,

RICHD. BOURKE.

[Enclosures.]

[Copies of these papers will be found in the "Votes and Proceedings" of the legislative council.]

LORD GLENELG TO SIR RICHARD BOURKE.

(Despatch No. 180, per ship Fortune.)

31 July.

Sir, Downing Street, 31st July, 1836.

I have the honor to transmit to you herewith for your information and guidance a Copy of a Dispatch, which I have addressed to the Lieutenant Governor of Van Diemen's Land, on the subject of claims brought forward by various Settlers in that Colony to Secondary Grants of Land, under the peculiar circumstances stated in that Dispatch.

For your further information and guidance, I transmit to you Extracts* of a Dispatch, which was addressed to Lieutenant Governor Arthur by Mr. Spring Rice in the year 1834, with reference to certain points submitted by that Officer for the consideration of His Majesty's Government connected with the system of Grants; and the principles laid down in which I have adopted without reserve in dealing with the question now under consideration. The two accompanying Dispatches will place you fully in possession of my sentiments on this subject.

I cannot, however, allow this opportunity to pass without recording in the most distinct terms my firm persuasion that a rigid adherence to the existing system† of the disposal of Land, introduced by Lord Ripon in 1831, so far as strict justice will allow, is essential to the welfare of the Colony itself, and is the only means of correcting an evil of great magnitude, which, had the former system been unchecked, would have been productive of the most injurious consequences to the interests and prosperity of the Inhabitants.

I have, &c.,

GLENELG.

Claims to
secondary
land grants in
Tasmania.

Necessity for
rigid system
in disposal of
lands.

* Note 134.

† Note 135.

[Enclosure.]

1836.
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LORD GLENELG TO LIEUT.-GOVERNOR ARTHUR.

Sir,

Downing Street, 31st July, 1836.

My attention has lately been directed to the claims of various Settlers in N. S. Wales and V. D. Land to secondary Grants of Land, founded on the promises held out to them in the printed Regulations,* which were promulgated by this Dept. in the years 1826 and 1827, and which continued to be issued until the year 1831, when the system of disposing of Land in the Australian Colonies was placed on its present improved basis.

Claims by settlers to secondary land grants.

The claims, to which it is my present purpose to advert, are those of Settlers who, previously to leaving this Country, received a copy of the Regulations in a letter bearing the signature of the Under Secretary of State, and then emigrated and expended their capital on the faith of the terms comprised in those Regulations. I find that this subject was brought by you under the notice of Lord Ripon in 1831, altho' I do not perceive, by your Dispatch of the 27 Octr. of that year, that you specifically adverted to one most important condition imposed on Settlers by the Regulations in question; I mean that by which Applicants for secondary Grants were required to shew, not only a certain Expenditure on their original Grant, but the possession of sufficient Capital to cultivate with advantage the additional Land for which they applied. Neither does it appear from that Despatch that the circumstance of the Claimants having actually received from this Office a copy of the Regulations, previously to their leaving this country, was brought under the immediate notice of Lord Ripon, or that the decision, which he felt it his duty to adopt adverse to their claims, was formed with reference to this material consideration. In the sound policy of the new system* introduced by Lord Ripon as to the disposal of Land, I entirely concur; and I am sensible of the importance of adhering to the spirit and letter of the Rules which he prescribed, and which have already been attended with the most salutary results. At the same time, I subscribe also to the principle laid down by Mr. S. Rice in his despatch to you of the 17th Octr., 1834, and from which no one can for a moment imagine that it was the intention of Lord Ripon in the slightest degree to depart, namely, that the Public faith is to be maintained inviolate, let the consequent inconvenience be what it may; and that, in estimating the extent of the pledge given to H.M. Subjects, we must look at the language employed, with no captious wish or effort to narrow by any doubtful interpretation the sense, which it was designed or calculated to convey to those to whom it was addressed. The question, therefore, which now arises with reference to the particular claims to which I have adverted, is to what extent was the Public faith pledged to the parties by the Regulations of 1826 and 1827. In the 21 Section of the Regulation of 1827, which is in fact a confirmation of the 18th Section of the Regulations of 1826, the following terms occur "Any Grantee, who can shew an Expenditure of Capital upon his first Grant to the amount of five times the estimated value of that Grant at the time of its being made to him, will be entitled to a further Grant with a reduction in his Quit-rent, at the rate of 2½ per Cent. on the estimated value of such Grant, on proving that he has sufficient Capital still in hand to cultivate to advantage the additional Grant." It may perhaps

Approval of system for disposal of lands.

Obligation to fulfil promises to settlers.

Regulation re secondary land grants.

* Note 135.

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Interpretation
of regulation.

be argued that it was not the intention of the framer of the Regulations of 1826 to confer, in the passage just cited, an absolute right to a Secondary Grant on any Grantee, who could shew a performance of the required conditions; but that the real construction is that, out of those persons who, not as a matter of right, but as an indulgence subject to the restriction contained in the 19th and 20th Sections of the Regulations of 1827, received a second Grant, those, who could shew an Expenditure of Capital on their first Grant to the amount of 5 times its estimated value, would be entitled to a reduction in the amount of the Quit rent on the further Grant. The language, however, which I have quoted, is open to a different construction, and might be considered as calculated to convey to those, to whom it was addressed, an absolute promise of an extension or Secondary Grant on the terms mentioned. I feel, therefore, bound to admit the claim to a Secondary Grant of such persons as may have been able within a reasonable period to shew that they have strictly fulfilled the conditions, required of them by the Regulations to which I have particularly referred, and such other conditions as prior to 1831 were attached to all Grants of Land. I say within a reasonable period, because it cannot I think be contended with any degree of reason that no definite time was contemplated within which Grantees might demand the fulfilment of this pledge on the part of the Govt. The consequence of such a construction of the Regulations would be to enable parties at any period, however remote, to claim Land from the Govt., which it would be impossible for the Govt. to grant to them without injustice to other individuals, who would in the mean time have acquired a right by purchase to the Lands at the disposal of the Crown. A period of Seven years is the time fixed by the 14th Section of the Regulations of 1827 as that within which every Grantee was required to shew that he had expended, on the Cultivation and improvement of his Land, a certain amount of Capital, and no additional Grant was to be made to any person who failed to produce such proof within that period. It is not therefore unfair to fix the same period of seven years from the date at which the parties obtained possession of their original Grants, as the term within which the claim for the Secondary Grant under the 21 Section of the Regulations of 1827 should have been made.

Admission
of claims to
secondary
land grants.

Limitation
of term for
claims for
secondary
land grants.

Principles to
control areas
of secondary
land grants.

The amount of the Secondary Grant, to which the Claimants were to be entitled, is not specified in these Regulations. In estimating the amount which in each case the party should receive, regard must be had not only to the amount of Capital proved to have been expended on his original Grant and of Capital proved to be in the possession of the Claimant and applicable to the cultivation of the Land, but also to the improved value of Land since the original Grant was made. In claiming as a right at the hands of the Govt. an exception in their own case from the existing Regulations, the Claimants can have no just ground for complaint, if the quantity of the Land to be allotted to them, which formed no part of the terms of the original agreement, is decided with reference to the enhanced value which Land has derived from the very Regulations, from which they claim the benefit of an exception.

Necessity
for proof of
fulfilment of
conditions.

Another point, to which I feel it necessary to direct your particular attention, is the importance of taking the most effectual means of ascertaining, beyond a doubt, that the conditions, required of the Settler, have been actually performed by him. The expenditure

on the original Grant, to the amount of 5 times the estimated value of that Grant, must be closely investigated, and it must appear to have been a bona fide Expenditure of Capital in permanent improvement on the Land; nor can too much caution be exercised in order to guard against the possibility of the frauds, which there is much reason to apprehend have some times been practised in the proof of the possession of the Capital available for future improvement.

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Necessity
for proof of
fulfilment of
conditions.

Parties claiming as a right the fulfilment of an agreement on the part of the Govt., involving as it does a departure from a system, which it is essential to the interests of the Colony should not be deviated from except for the most cogent reasons, must submit to the strictest scrutiny as to the performance, on their own part, of the conditions on which alone that agreement originally rested.

In conformity with this principle, I feel it my duty further to call your attention to the payment by Settlers of the Quit-rent due for their original Grants. No person, from whom any Quit rent has become due and who has failed to pay it, can claim from the Govt. any additional Grant, until he has fully discharged the debt thus due from him; nor can I sanction any relaxation in favor of such Claimants of the obligation, which they have incurred, regularly to discharge the accruing Quit-rents on their Land so long as they remain unredeemed. I am fully aware of the difficulty, which has been found to exist in the regular collection of the Quit rents. This indeed was one of the points adverted to by Lord Ripon as illustrative of the defects of the system of disposing of Lands, which was in force previously to 1831; but this very circumstance renders it more imperative on the Govt. to use every precaution to prevent additional Grants on the original Tenure being made to persons, who have failed either to redeem or punctually to discharge the Rents due from them on account of former Grants. I am disposed to think that the experience of the great disinclination to pay these Quit-rents, and of the difficulty of enforcing them, may render it necessary, in the case of any Secondary Grants being made in pursuance of my present Instructions, to require some security from the Grantees for their regular payment of the Quit-rents on the original and secondary Grants until they shall have been redeemed. It may also perhaps be possible in some cases at least to satisfy the claims for an additional Grant by an arrangement with the Claimant, which would discharge his Original Grant, either wholly or in part from the Quit-rent due upon it. On this, however, and other details connected with this subject, I feel myself unable to give those precise Instructions, which local knowledge and the varying circumstances of each case will suggest. I have been anxious to lay down with as much distinctness as possible the principle on which I am of opinion that claims of this nature ought to be dealt with.

Secondary land
grants subject
to payment of
quit rents.

The cases, which have more immediately led me to consider this question, are those of Mr. Hector, of Mr. Tabart, which formed the subject of your Despatch of the 1st Decr. last, and of the family of the Forlongs, on which I have recently received from you a full report. With respect to the last of these cases, it is my intention to address to you a separate despatch. With regard to the former, I must leave them to be disposed of by yourself and the Council, with reference to the principle which I have laid down in this despatch, and with a careful regard to the several points to which

Instructions re
applications
lodged.

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31 July.

General
instructions.

I have particularly directed your attention. Should any other cases present themselves to you clearly coming within the same Class, you will be authorised in disposing of them on the same principle; but you will not fail to report to me fully the circumstances of each case and the decision, which has been adopted with respect to it. Deeply impressed as I am with the importance on every ground of a rigid adherence to the present Regulations as to the disposal of Land in the Colony, I trust that the instances will be but few in which a deviation from these Regulations will be rendered necessary by the view, which I have been compelled to take of this question, and that full justice will be done to the parties, who may be able clearly to establish a claim to a Secondary Grant, without any material interference with the existing system, which it is the determination of H.M. Govt. firmly to maintain.

I have, &c.,

GLENELG.

SIR RICHARD BOURKE TO LORD GLENELG.
(Despatch No. 83, per ship Elizabeth.)

1 Aug.

My Lord,

Government House, 1 August, 1836.

Transmission
of letter from
W. Foster.

Having communicated to Mr. Willm. Foster, Superintendent of Hyde Park Barracks in Sydney, the contents of his daughter's Representation transmitted for this purpose with Your Lordship's Dispatch of the 24th December last, No. 89, he has addressed to my Private Secy. the accompanying Letter accounting for his omission to afford to his wife and family in England the pecuniary assistance which they expected to receive from him.

Testimony in
favour of
W. Foster.

I have no reason to doubt the truth of his statement, nor do I think it likely, from what I know of his character, that he will in future withhold from his Family such aid as his circumstances will allow. I do not therefore feel it necessary to enforce by any act of authority the offer, which he has made to set apart the half of his Salary for this purpose, unless I receive Your Lordship's commands to that effect.

I have, &c.,

RICHD. BOURKE.

[Enclosure.]

MR. W. FOSTER TO MR. G. K. HOLDEN.

Sir,

Hyde Park Barracks, Sydney, 18th July, 1836.

Statement in
explanation by
W. Foster.

I have the honor to acknowledge the receipt of your letter with the accompanying enclosure, viz., the copy of a despatch from the Secretary of State for the Colonies, herewith returned with such explanations that I hope may be considered sufficient to account for my past conduct, and beg you will be pleased to communicate the same to His Excellency The Governor.

Military
services.

1st. With respect to my being an officer in the Army:—My first entry in the line was in the 48th Regiment in the year 1807 as a private Soldier, in which Corps I served in the Peninsula in the years 1809, 1810, 1812, 1813, 1814 and received three wounds, and, before the conclusion of the campaign in 1814, was promoted from

Sergt. Major to an Ensign's Commission in the same Regt. On the reduction of the 2nd Battn., I was placed upon half pay on 3s. per day and remained on half pay until April, 1825, when I was appointed by His Royal Highness The Duke of York to do the duty of Adjutant to the reserve companies. On the 26th December, 1826, I was promoted by His Royal Highness to a First Lieutenancy in the 23rd Royal Fusiliers; finding the expences so very great with a Family and nothing but my Pay, I applied to His Grace of Wellington, in 1827, The Commander in Chief, to allow me to retire upon half pay, receiving the difference; and, in July, 1827, I was allowed by Lord Palmerston and settled in Devonshire near Plymouth, expending the sum received in furniture, etc. My Wife's Mother came to see us and prevailed upon my Wife to remove to Leicester, a distance of 300 Miles; very foolishly we removed; I shortly saw my folly; I was paying more than I could afford for instructions for the two Girls and my mind was frequently hurt by the relatives keeping them from their studies for pleasure, myself knowing the wants of a youthful education; my Parents being poor, I was not sent to school after I was seven years of age; finding I could not do with the Children as I wished, I resolved to come to this Country. Therefore I disposed of my half Pay for that purpose. My Wife's Mother said it would break her heart to part with my Wife or either of the Girls. I paid every debt even the Doctor's bill, left them with a house genteelly furnished in every part, well supplied with coals for two years' consumption, a supply of Liquors and Beer of my own brewing, garden well stocked with fruit and vegetables, and on leaving gave my Wife one hundred pounds; after which, I had eighty to come to a strange country with. My Wife pressed upon me to leave her less, as she was brought up to bonnet making, and the eldest girl could either keep a school, or get her living at dressmaking. Now this Girl it appears wrote the document, alluded to, to His Lordship, which I am convinced is not her composition but that of some male person. I have regularly written, twice from Newcastle, once from Emu Plains, twice from Coxes River, and twice from Sydney; as Stated, I wrote from Newcastle requesting my Wife to come and she had every means. I was in hopes I should be able to allow them half of my Salary after I was settled. I received an answer from my wife saying her mother was ill, and it would break her heart to lose the Children; she therefore hoped I would excuse her for the present; in the last letter received by me ten months back, my Wife says her Mother was very ill, and she hoped I would come to England to fetch them, and that nothing in the World should cause us to be one hour apart, for she missed me more and more every day. Now I am astonished how a girl in her twentieth year Should write to His Lordship, when her Mother, which is only in her 39th year, could have more properly done so.

Now, Sir, I will give an outline of how I have been situated, from which it may be judged whether I could have any thing at present to spare. First, I unfortunately took my passage in the Bark Rifleman for Hobart Town, being informed she was to come to Sydney. After remaining at Hobart Town nearly a fortnight at a great expence, I paid ten pounds for a Passage in the Eagle to Sydney in the Month of November, 1832. On the 16th January, 1833, His Excellency the Governor was pleased to appoint me to superintend No. 3 Stockade at Newcastle with 4s. per day; the

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Military
services.

Explanation *re*
family details.

Employment
in colony.

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Employment
in colony.

first 8 Months I boarded and lodged at an Inn not having any quarters provided; the last six months I had to visit another Stockade, which I had formed at the "Green Hills," 20 Miles from NewCastle, once every week; on those visits I was obliged to put up at a respectable Inn, so that on my leaving NewCastle I was thirty pounds worse than when I arrived there. On the 1st March, 1834, I was ordered by His Excellency to take charge of No. 1 Stockade at "Emu Plains." On the 1st July in the same year, I was ordered to take charge of No. 2 Stockade in the Mountains, and in July, 1835, His Excellency was pleased to remove me to take charge at this place. So with continual Movements, Expences on Removals, Travelling, Furniture, Washing, Clothing, and other necessary Articles, I have had but little to spare, for I have on two occasions been the dupe of false, pretending friends. However I have recovered myself after losses, and thank God clear with all Persons.

Proposal for
allowance to
wife.

If His Excellency would be pleased, I should be most happy to pay the half of my Pay monthly into the hands of any Public Officer, His Excellency Should be pleased to name, for the purpose of being paid to my Wife in England; it would be a pleasure to me to assist her as far as in my power.

On my arrival, I did not receive any Land or allowance towards the purchase of any as a Subaltern Officer retiring from the Army. Should it not be contrary to Government Regulations, the sum allowed would cover my Family's passage to this Colony, for which I should feel for ever thankful.

I beg, &c.,
WM. FOSTER.

SIR RICHARD BOURKE TO LORD GLENELG.

(Despatch No. 85, per ship Elizabeth; acknowledged by lord Glenelg, 30th April, 1837.)

7 Aug.
Transmission of
appropriation
act and
financial
statements.

My Lord,

Government House, 7 August, 1836.

Protests by
members
against votes.

I have the honor to transmit a printed copy of the Appropriation Act for 1837, containing also a Supplementary Charge for this year, as it passed the Council on the 5th Instant. Your Lordship will find, in the accompanying Minute, a detail of the ways and means from whence the proposed expenditure is to be defrayed, with such statements and explanations touching the Finance of the Colony as seem necessary for the full elucidation of the subject, and will, I hope, obtain His Majesty's gracious allowance of the Act. But before closing this Despatch, it is proper I should advert to the Protests which accompany the Act. One Member, Mr. Blaxland, has repeated the objections made by him in former years to the Salaries of the Colonial Secy., Treasurer, Resident at New Zealand, and Colonial Agent; Four have entered a Protest against the vote for National Schools. This subject will be brought under Your Lordship's consideration in another Despatch, as it is not on the score of expence that the protesting Members oppose the Institution. Two have protested

against the appropriation of £600 towards the support of destitute Roman Catholic Children. Upon this subject, I have a few observations to submit.

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7 Aug.

The vote has not been, as stated by the protesting Members, "for the Establishment of an orphan School for destitute Roman Catholic Children." When notice was given of the Resolution, it appeared indeed in these terms; but, before it was moved in Council, the wording was altered and the sum voted "for the support of destitute Roman C. children." This change was made in the terms of the Resolution, lest it should be thought by the public that it was the intention of this Government to establish under its direction and management a R.C. Institution similar to the Protestant orphan Schools of the Colony.

Vote for support of destitute R.C. children.

To enable Your Lordship to judge of the propriety of the vote under consideration, it may be necessary to explain briefly the nature of these Schools and the Regulations by which they are governed. It is to be observed in the first place that orphanancy is not an indispensable requisite for admission into these Schools. Many children, who have one or both Parents living, but unable to provide for them, are received. They are for the most part the children of Convicts. Many of them are illegitimate, born in the Female Factory, their Fathers unknown, and their convict Mothers sent out into service as soon as the child is weaned. The circumstances, which lead to the destitution of those not so born, are usually the death, second conviction or cancellation of the Ticket of Leave of either Father or Mother, or the arrival of a wife with children in the Colony, whose convict Husband, being still in servitude, is unable to assist in maintaining them, whilst the wife can do little more than support herself. To these causes may be added the casualties of sickness and misfortune affecting both free and bond.

Orphan schools.

These destitute children, whether born in the Factory and baptized by a Romish Priest at the desire of the Mother, or bred in the Catholic Faith by their Parents, are placed indiscriminately in the Protestant Orphan Schools, where the doctrines of the Church of England are taught, and its forms observed to the entire exclusion of any other creed. These facts, and their consequences are very fully and fairly stated in the Petition presented to the Council, of which I transmit a Copy. The prejudicial effects of the practice have been long felt; but it was not deemed expedient to adopt in this case the measure prescribed in the statute, 4 and 5 Wm. IV, c. 76, with respect to the Poor-Houses in England. It was feared that jealousy and contention would have been the result of an attempt to bring up in different religious opinions children living under one roof as one family. It

Admission of R.C. children to Protestant orphan schools.

Objections to practice.

1836.

7 Aug.Reasons for
vote by council.

has been thought more advisable to appropriate a sum of money to be expended under proper Control, by Roman Catholic Trustees, in relieving the wants of the destitute children of their communion, who would otherwise be compelled by necessity to seek an asylum in a Protestant Institution.

One if not both of the Members, who have entered Protests against this vote, appear to consider the children in the Orphan School as *Foundlings*, than which nothing can be more erroneous. There are but very few of this description in either School. They are bred up in the Protestant Faith.

I have, &c.,

RICHD. BOURKE.

[Enclosures.]

[Copies of these papers will be found in the "Votes and Proceedings" of the legislative council.]

SIR RICHARD BOURKE TO LORD GLENELG.

(Despatch No. 86, per ship Elizabeth; acknowledged by lord Glenelg, 27th February, 1837.)

8 Aug.

My Lord,

Government House, 8 August, 1836.

Proposal for
national schools
submitted to
legislative
council.

His Majesty's Government having sanctioned the proposal I had the honor to submit for the Establishment of National Schools in this Colony upon the model of those of Ireland, I took an opportunity of bringing the subject before the Legislative Council on opening the present Session and laid on the Table Your Lordship's Despatch of the 30th Novbr. last. The subject was renewed on presenting the Estimates, in which it was proposed to appropriate £3,000 towards the institution of these Schools. In the Minute Explanatory of the Estimate, the intended formation of a Board of Education was announced, the 1st and 2nd Reports of the Commrs. of the Irish Board were laid before the Council, together with the Regulations and principal Books used in the Schools including the Scripture Lessons. In the same Estimate, sums were proposed to keep up the existing Colonial Schools of the Church of England and of the Roman Catholics, and in aid of those Established by other Bodies of Christians, for which no support from the public funds had hitherto been granted. It was stated in the Minute that, by means of the proposed grant of £3,000, it was intended to make certain preliminary arrangements and to exhibit experimentally, by the Establishment of one or two Schools, the nature of the proposed system of Education. At the same time, I gave it to be understood that, if these Schools failed to obtain the approbation

of the people and to be well attended, any further aid might be withheld, whilst funds were still provided for supporting those Places of Education, which were previously established.

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I proceeded thus cautiously in introducing the measure, as I was aware that the Bishop of Australia and Mr. McLeay the Colonial Secretary were opposed to it. It was not, however, until about six weeks after the first official announcement of my intention to propose the Establishment of national Schools, that I became acquainted with the complete organization which the opposition had assumed. In a printed Speech* of the Bishop's, I am informed that this organization was not prepared by His Lordship; but, as he presided at the Meetings at which the Resolutions were passed, a Petition and Sub Committee named, and as his signature is affixed as Chairman of the Meeting, and is the first to the Petition, I cannot but consider him as the Leader of this opposition. Since His Lordship's return to the Colony, though I have had frequent communications with him, both personal and in writing upon the subject of the Church, none had passed with regard to Schools. But once I mentioned the subject of Education and observing an unwillingness, as I thought, in His Lordship to entertain it, I immediately desisted. It was then with no little surprize I found, in the public prints of the 15 July, Resolutions adopted at Meetings presided by the Bishop of Australia and held at the Hotel, where His Lordship lodged, on the 24 June and 14 July, denouncing the proposed Schools in no measured terms, misrepresenting the system of the Irish Board and casting unfounded imputations on the Government and Parliament of Great Britain. The Resolutions of the 24th June had been followed up by a Petition to the Governor and Council, containing matter even more objectionable and inflammatory than the Resolutions, which, without publication or official announcement, was put into circulation for signatures. A printed copy of the Resolutions and Petition is transmitted.

Opposition of bishop of Australia and A. Macleay to national schools.

Participation of bishop in organised opposition.

Meeting held to protest against national schools.

Your Lordship will perceive by the advertisement prefixed to the Resolutions, that the Bishop of Australia associated himself with various Dissenting Ministers for the purpose of defeating by clamor and misrepresentation the declared objects of His Majesty's Government. To effect this purpose, no means were left untried. The Clergy were either especially directed, or, acting on the spirit of the 4th Resolution of the 14 July, some of them denounced from their Pulpits the proposed system of Education, and urged their congregations to the immediate signature of the Petition, of which copies were to be found in the vestries. The names of respectable Persons were published in the Lists of Sub-committees, whose consent had never been

Collaboration of bishop with dissenting ministers.

Signatures procured by clergy to petition.

* Note 136.

1836.

8 Aug.

Raising of
sectarian issue.

obtained, and in very many were included those of Persons friendly to the system of general Education. The cry of danger to the Church, of Popery and Infidelity, was raised in this little Community for the first time, and the harmony, which has hitherto prevailed between Protestants and Catholics, appeared to be hazarded.

Counteraction
of misrepresen-
tation.

To counteract these misrepresentations and to undeceive the People as to the principle and operation of the national System, I laid a minute before Council, and directed a circular Letter to be addressed to the Police Magistrates of Districts, of which I transmit Copies. These Papers, being published and commented upon in the public Journals and obtaining Circulation and credence, succeeded in allaying much of the excitement which had been raised.

Petitions
by bishop to
council.

A few days previous to the consideration of the estimates, the Bishop of Australia petitioned to be heard before Council against the proposed grant for National Schools. This being refused as contrary to rule, His Lordship presented, through one of the Members, a Petition praying the Council to reject the Grant. The vote was, however, carried by eight voices to four, a Resolution being at the same time agreed to intended as an Instruction to the Board of Education, intimating that, in the opinion of the Council, a Chapter of the authorized version of the New Testament should be read on the first (School) morning of every week to the Protestant Scholars in attendance.

Resolution
re reading of
scripture in
schools.Petition for
sectarian
schools.

The Petition adopted on the 24th June and one of later date, praying for the Establishment of Separate Places of Education for the different Creeds, was presented to Council upon the day of the second reading of the appropriation Act. No division, however, took place during any of the stages of that Act. Upon its passing, a Protest against the grant of £3,000 for National Schools, signed by four Members,* was entered, of which a copy is transmitted. The Protest is not signed by the Colonial Secretary, who divided against the Resolution in Committee, but it is signed by a Member who was not present at that division. The measure has therefore been supported by eight Members out of thirteen, of which the Council now consists, and is opposed by five.

Protest against
vote for
national
schools.Public
opinion *re*
establishment
of national
schools.

Notwithstanding what is alleged to the contrary by the Bishop of Australia, I have little doubt that a majority of a much higher ratio in favor of the Establishment of National Schools exists out of doors. The Petition of the 24th June, which was in circulation for three weeks before the operations of the Bishop were declared, or the misrepresentation of the Committee exposed, has been signed by more than 1,300 Persons of all sorts; but, the

* Note 137.

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Public
opinion re
establishment
of national
schools.

nature of the proposed system beginning now to be generally understood, a reaction has taken place, and several of those, who signed the Petition in ignorance, have expressed their sorrow and withdrawn their opposition. A public meeting has been held in the District of Illawarra, at which the Establishment of the Schools is hailed as a boon of the highest value in a Resolution moved by the Church of England Chaplain of the District. I am given also to understand that the Presbytery of New South Wales will declare in its favor. The Dissenters too, whom the Bishop of Australia received as allies, now begin to find how adverse to their own interests are the Exclusive views of His Lordship, and some of them have expressed their dissatisfaction in the public prints. A speech,* which the Bishop made to his Committee and which he has printed and circulated, has convinced them of a fact which they never should have doubted, that, with a Churchman of the Bishop of Australia's principles, no Dissenter can long remain united.

In this Speech, of which I have the honor to transmit a copy, the Bishop blames the Council for not delaying the Estimates to suit his opposition. In the protest of the four Members, the form of proceeding in Council with respect to the vote for the Schools is also objected to. These objections, which are the only ones that appear to require remark, may be briefly replied to. The Bishop of Australia complains of precipitancy in passing on the 5th of August a grant of a small sum of money for an object formally announced on the 2nd of June preceding. His Lordship has given no better reason than that a longer delay would have enabled him to procure more signatures to a Petition against it. That such would have been the case however to any important extent, I very much doubt, as, before the appropriation act was passed, the misrepresentations of His Lordship's Committee had been exposed, and the measure was rapidly acquiring support. It was nevertheless the duty of Government to put a stop to the excitement, which was certain to continue whilst the measure was pending in Council, and this was effected not by any unusual haste and absence of form, but by bringing forward the Estimate in the regular and accustomed manner. In the Protest, it is objected that the Regulations by which the National Schools are to be governed and especially that for the introduction of the new Testament, which was recommended by Your Lordship, have not been discussed in Council. It was for many reasons deemed more prudent to follow the course adopted in Parliament by obtaining a vote of money to be expended under the direction of a Board of Commissioners as recommended in Your Lordship's Despatch. It would have been difficult in a Council, composed

Objections
by bishop to
prompt passage
of estimates.

Statements
in protest by
members of
council.

Vote to be
expended at
discretion of
board.

* Note 136.

1836.
8 Aug.

Probable
respect for
independent
board.

Possibility for
future changes
in schools.

Expected
success of
national
schools.

as this is, to have discussed with calmness the details of the proposed measure; and it is certain that the Public, placing no confidence whatever in the Council, are more likely to regard with respect the Regulations of a Board composed of qualified Persons of different religious Denominations than the Emanations of a self condemned body, consisting for the most part of Members selected for their known political bias. The manner, in which it is proposed to institute the Schools, leaves it however entirely to the choice of the People to adopt or reject them and to a future and better constituted Legislature to continue or with-hold support. Should they be found unsuitable, the school House, which has been built, and the Master provided for one system can readily be accommodated to another. In the mean time none of the ancient Schools are discontinued. Of these, with few exceptions, none are considered by the Public as entitled to the encomiums which the Bishop has been pleased to lavish upon them. They are of little or no repute, unsuited to and insufficient for the purpose of General Education.

Of the success of the National Schools as the system upon which they are to be conducted becomes generally understood. I have little or no doubt, nor that Your Lordship's name as their Founder will be long remembered with gratitude by the Inhabitants of Australia.

I have thought it right to enter at some length into these transactions as the part taken by the Bishop of Australia has given them an importance in the Colony to which Your Lordship's attention may be called from other quarters.

I have, &c.,

RICHD. BOURKE.

[Enclosures.]

1. Minute of His Excellency the Governor.
2. Petition from the Lord Bishop of Australia, praying to be heard before the Legislative Council.
3. Petition from the Lord Bishop of Australia, against the establishment of National Schools.
4. Petition from the Committee of Protestants.
5. Petition from certain Protestants of the Colony.
6. Petition from certain Inhabitants of the Colony.
7. Circular to the Police Magistrates.
8. Protests against the Appropriation for National Schools.
9. First Report of the Commissioners of National Education in Ireland.
10. Extract from the Second Report of do. do.
11. Regulations of the Board of do. do.

[All the above papers excepting No. 7 were printed in the "Votes and Proceedings" of the legislative council.]

List of
enclosures.

[Enclosure No. 7.]

1836.
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A CIRCULAR LETTER TO POLICE MAGISTRATES.

Sir, Colonial Secretary's Office, 23rd July, 1836.

An Advertisement having appeared in the Colonial Newspapers containing certain Resolutions, passed at Meetings held at the Pulteney Hotel, Sydney, on the 24th June and 14th instant, which condemn, as "subversive of the fundamental principle of Protestantism," the system of National Education established in Ireland by the British Government and Parliament, and proposed for introduction into this Colony by direction of the Right Honorable the Secretary of State, I am commanded to transmit to you the accompanying Copies of the Regulations and Directions issued by the Board of Commissioners of National Education in Ireland, and to desire that you will give to them all possible publicity in your District, as affording the best answer to such an unfounded imputation.

Regulations
re national
education
transmitted
for publication.

The erroneous view of this plan of Education, upon which such imputation proceeds, appears expressed in one of the Resolutions declaring the opinions of the Meeting to be adverse to "any system of general Education founded on the principle of interdicting, either wholly or in part, the use of the Holy Scriptures according to the authorised Version, and of Prayer in which the doctrine of the Blessed Trinity may be unequivocally acknowledged or implied"; thus leaving it to be inferred, that the free use of the Scriptures, and of the forms of Prayer of their several Communions, are interdicted to the Children frequenting those Schools.

Alleged
interdiction
of religion
in national
schools.

Upon perusing the Rules, it will be found that no such principle of interdiction exists in the National System. Upon this point, your attention is called to the impressive language of the Board of Commissioners of Education (of which the Protestant Arch-Bishop of Dublin is a member) in one of the printed Reports which accompany this letter. Referring to their Regulations for a conclusive answer to misrepresentations similar to those circulated here, they observe "that those Rules prove to all, who choose to read them with the view of understanding not perverting them, that, while it is desired to bring Christian Children of all denominations together, so that they may receive instruction in common in those points of Education, which do not clash with any particular religious opinions, care is taken that sufficient time be set apart for separate religious instruction; and that the Ministers of God's word, of all Christian Creeds, and those approved of by them, shall have the fullest opportunity of reading and expounding it, and of seeing that the Children of their respective denominations do read and understand it, not only weekly but daily, if they think proper."

Regulations
re religion
in national
schools.

Upon all such occasions, the authorised Version of the Scriptures, either wholly or in part, and the forms of Prayer and Catechisms of their respective Communions, may at the desire of the Parents be read by or to any Child attending the School.

The Governor earnestly trusts those persons, to whom you may communicate these observations, will examine the whole subject for themselves before acquiescing in erroneous statements, such as those contained in the Resolutions referred to. His Excellency cannot doubt that such examination will convince them both of the unfounded nature of those objections, and of the great importance of establishing, in the infancy of this Colony, a Plan of gratuitous Education adapted to comprehend the great mass of its Inhabitants.

Desire of
governor
for full
comprehension
of system.

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Practical result
of system in
Ireland.

That the proposed system is so adapted is sufficiently proved by its actual operation and success in the Country where it has been already introduced. After upwards of three years' experience, the Commissioners declare "that it has proved generally beneficial and acceptable to Protestants and Roman Catholics, according to their respective wants, being founded on principles which conscientious men of different religious denominations may and do embrace." They declare "that, although from a misapprehension of the Rules which the National System enjoins respecting the use of the Scriptures, it originally met with much opposition, yet it has succeeded beyond their highest expectations, and that reasonable men of all parties are daily manifesting more and more their approval of it." His Excellency cannot doubt that such will be the result of similar examination and similar experience in this Colony.

Expected
results in
colony.

In its remoter effects, His Excellency anticipates, in common with the Commissioners, that, "by training up and uniting the Youth of the Country together, whatever their religious differences may be in feelings and habits of attachment and friendship towards each other, the National Schools may be rendered the means of promoting charity and good will amongst all Classes of the People."

I have, &c.,

ALEXANDER M'LEAY.

[Additional enclosure.]

RESOLUTIONS.

Resolutions
passed at
meeting of
Protestants
re national
schools.

At a Meeting of Protestants, representing the Episcopalian, the Presbyterian, the Independent, the Baptist, and the Wesleyan Denominations of Christians in New South Wales, held at the Pulteney Hotel, Sydney, on Friday, June 24, 1836,

The Right Reverend the Lord Bishop of Australia in the Chair; it was unanimously resolved:—

I. That this Meeting, having learnt by official documents recently published that it is the intention of Government to propose the establishment in this Colony, by an enactment of the local Legislature, of a system of General Education, and that the Schools, introduced into Ireland a few years ago under the sanction of the British Government, are thought to afford an appropriate model for that system, do unanimously express their solemn and decided opinion that any system of General Education, which shall be founded on the principle of interdicting, either wholly or in part the use of the Holy Scriptures according to the Authorised Version, and of Prayer in which the doctrine of the Blessed Trinity may be unequivocally acknowledged or implied, could not receive their countenance or support, without a compromise of the essentials of their Faith.

II. That this Meeting do now form itself into a Committee of Protestants (to be hereafter enlarged in number) for the purpose of concerting measures to obtain the general co-operation of the Protestant body throughout the Colony of New South Wales, in petitioning His Excellency the Governor and the Honourable the Legislative Council on the subject of the proposed plan of General Education, setting forth their objections to the basis upon which the same is founded, as being, according to their conscientious conviction, subversive of the fundamental principle of Protestantism, and, they are persuaded, opposed also to the wishes of a very large majority of the people of this community.

III. That the Petition now produced be adopted by this Meeting, and signed by the Members present.

IV. That, for the more effectual accomplishment of this purpose, a General Committee be formed, to consist in addition to the individuals now present of all the Protestant Ministers having charge of Congregations in Sydney, and of twenty-four Protestant Laymen resident in Sydney or the vicinity thereof, of whom twelve shall be Episcopalian and twelve members of other Protestant denominations; that of this General Committee any seven duly convened shall form a quorum; that they have power to fill up vacancies on the principle of the aforesaid proportions; and that the following Ministers and Laymen be requested to constitute such Committee.

General Committee.—Australia, The Right Reverend The Lord Bishop of; Allen, George, Esq.; Aspinall, Edward, Esq.; Barker, Thomas, Esq., J.P.; Bell, Hutchinson, Esq.; Bourne, Mr. Robert; Cadell, Thomas, Esq.; Campbell, Charles, Esq.; Cowper, The Rev. W.; Crook, The Rev. W. P.; Crookes, The Rev. John; De Mestre, Prosper, Esq.; Ferriter, S., Esq.; Foss, Ambrose, Esq.; Haslingden, E., Esq.; How, Robert,

Appointment
of committee.

Esq., J.P.; Jarrett, The Rev. William; Jones, Mr. David; Lang, The Revd. J. D., D.D.; McGarvie, The Rev. John, A.M.; M'Kenny, The Rev. John; Mackenzie, The Rev. David, A.M.; Mansfield, The Rev. R.; Marsden, The Rev. Samuel; Mitchell, Francis, Esq.; Ramsay, David, Esq.; Ryder, Thomas U., Esq., J.P.; Saunders, The Rev. John; Smith, Thomas, Esq.; Taylor, Mr. Joseph; Walker, Thomas, Esq., J.P.; Wallace, Francis, Esq., M.D.; Wilks, William, Esq.; Winterup, Mr. Thomas; Wyde, The Rev. Robert, A.M.; Yate, The Rev. William.

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WILL, G. AUSTRALIA, Chairman.

At a Meeting of the General Committee of Protestants, held at the Pulteney Hotel, Sydney, on Thursday, July 14, 1836,

The Right Reverend the Lord Bishop of Australia in the Chair; it was unanimously resolved:—

Resolutions
passed by
general
committee of
Protestants.

I. This Meeting do cordially and unanimously approve and adopt the Resolutions, and the Petition to His Excellency the Governor and the Honourable the Legislative Council, now read, passed at a Meeting of Protestants held at the Pulteney Hotel, Sydney, on the 24th June, 1836, the Right Reverend the Lord Bishop of Australia in the Chair; and pledges itself to zealous exertion in furtherance of the object therein contemplated.

II. That the following Ministers and others, resident in the interior of the Colony, be respectfully requested to constitute Sub-Committees for their respective Townships and Districts, for the purpose of obtaining signatures to the aforesaid Petition, and of co-operating generally with this Committee in such further measures as may be hereafter agreed upon (See below).

III. That, in order to defray such expenses as may be incurred by printing and otherwise, a Subscription be made throughout the Colony, not exceeding the sum of Ten Shillings from any one individual; that, should any surplus remain in the hands of the Treasurer on the dissolution of this Committee, the same shall be applied to the funds of the Benevolent Society; and that Thomas Barker, Esq., J.P., be requested to accept the office of Treasurer.

IV. That this Committee, anxiously alive to the great interests of Protestant Christianity, earnestly entreats all Protestants to exert themselves strenuously, at this most eventful crisis, for the protection and promotion of that Holy Cause which is common to them all; and respectfully and affectionately invites all Protestant Ministers throughout the Colony, of whatever denomination, to explain to their respective flocks the spirit and design of the present proceedings, and to exhort them to a hearty and a prompt co-operation in the intended Appeal to the local Legislature.

V. That these Resolutions, together with those of the 24th June, be published three times in all the newspapers in the Colony; and that, together with the Petition therein adopted, they be also printed on sheets for general distribution by the several Sub-Committees.

WILL, G. AUSTRALIA, Chairman.

VI. That the warmest and most respectful thanks of this Committee be presented to the Right Reverend Chairman, for his able and impartial attention to the business of the day.

RALPH MANSFIELD, Secretary.

Sub-Committees.

1. Parramatta.—Draper, The Rev. Daniel J.; Forrest, The Rev. Robert; Marsden, The Rev. Samuel; Dunlop, James, Esq.; Howison, Mr.; Hunt, Mr. Richard; Lockyer, Major, J.P.; M'Dougall, John, Esq.; Palmer, G. T., Esq., J.P. Sub-committees appointed.

2. Field of Mars.—Dickinson, The Rev. Charles; Devlin, Mr. James; Forster, Dr., J.P.

3. Windsor and Richmond.—Cleland, The Rev. John, A.M.; Schofield, The Rev. William; Stiles, The Rev. H. T., A.M.; Beddek, Francis, Esq.; Bowen, G. M. C., Esq.; Bowman, George, Esq.; Cox, William, Esq., J.P.; Johnson, Mr. Andrew; Martin, Mr. Robert, Sen.; Richardson, William, Esq., J.P.

4. Pitt Town, Wilberforce, and Portland Head.—Meares, The Rev. M. D., A.M.; Sharp, The Rev. Thomas; Arndell, Mr. Thomas; Bushell, Mr. Paul; Hall, Mr. George, Sen.; Hall, Mr. George, Jun.; Johnson, Mr. William.

5. South Creek.—Lethbridge, R. Copeland, Esq.; Marsden, Charles, Esq.

6. Penrith.—Fulton, The Rev. H.; Tompson, Mr. C., Jun.

7. Mulgoa.—Cox, Edward, Esq., J.P.; Cox, George, Esq., J.P.

8. Liverpool.—Cartwright, The Rev. Robert; Cooper, Mr. Joseph; Hoskins, Mr. J.; Kinghorne, Alexander, Esq., J.P.; M'Kenzie, Colonel; M'Leod, Archibald, Esq., J.P.; Moore, Thomas, Esq., J.P.

9. Campbelltown.—Reddall, The Rev. Thomas; Bell, Mr. Robert; Bloomfield, T. V., Esq., J.P.; Cordeaux, W., Esq., J.P.; Inglis, Thomas, Esq.

10. Hebersham.—Hassall, The Rev. Thomas; Coghill, John, Esq., J.P.; Cowper, Charles, Esq.

11. Illawarra.—Wilkinson, The Rev. F., A.M.; Osborne, Henry, Esq., J.P.; Reddall, John, Esq.

12. Camden.—M'Arthur, William, Esq., J.P.; M'Leay, George, Esq., J.P.

13. Sutton Forest.—Vincent, The Rev. John; Sturt, Charles, Esq., J.P.; Throsby, C., Esq., J.P.

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Sub-committees
appointed.
14. Bungonia.—Futter, Robert, Esq., J.P.; Reid, David, Esq., M.D., J.P.; Styles, Mr.
- 15.—Goulburn.—Bradley, William, Esq.; Gibson, Andrew, Esq., J.P.; Macfarlane, Mr. James; Mackellar, Duncan, Sen., Esq., J.P.; Rossi, F. N., Esq., J.P.
16. Yass Plains.—Broughton, W., Esq.; Manton, John, Esq.
17. Limestone Plains.—Mowatt, Francis, Esq.; Simpson, Thomas, Esq.; Turner, Robert, Esq.
18. St. Vincent.—Galbraith, George, Esq., J.P.; Ryrre, James, Esq.; Wallace, William, Esq.
19. Bathurst.—Keane, The Rev. J. E., A.M.; Lewis, The Rev. F.; Smythe, The Rev. K. D., A.M.; Keyes, Mr. Richard; Lane, Mr. W.; M'Kenzie, A. K., Esq., J.P.; Piper, John, Esq., J.P.; Rankin, George, Esq., J.P.; Stewart, Major-General; Street, John, Esq., J.P.; Tom, Mr. William.
20. Newcastle.—Wilton, The Rev. C. P. N., A.M.; Threlkeld, The Rev. L. E.; Biddulph, E., Esq., R.N.; Croasdill, Mr. William.
21. Maitland.—Garven, The Rev. J. H., A.M.; Rusden, The Rev. J. K., A.M.; Cobb, John, Esq.; Hungerford, Emanuel, Esq., J.P.; Lang, Mr. Andrew; Lethbridge, Robert, Esq., J.P.; Lewis, Mr. John; Mein, Mr. John Stewart; Mitchell, Houston, Esq., J.P.; Russell, Captain.
22. Darlington.—Ballow, Doctor; Busby, A., Esq.; Glennie, James, Esq., J.P.; Johnson, Mr. John; Larnach, E., Esq.; M'Dougall, Alexander, Esq.; M'Dougall, J., Esq.; Scott, Robert, Esq., J.P.; Sempill, H. C., Esq., J.P.; Weightman, Mr. A. S.
23. St. Aubin.—Cox, William, Esq. (tertius); Dumaresq, Captain.
24. Port Stephens.—Cowper, The Rev. W. Macquarie; Cook, Mr.; Corlette, Captain; Dumaresq, Lieut. Colonel, J.P.; Eckford, Doctor; Stubbs, Mr.
25. Port Macquarie.—Cross, The Rev. John; Innes, Major, J.P.; Morton, Lieutenant.

SIR RICHARD BOURKE TO LORD GLENELG.

(Despatch marked "Separate and Confidential," per ship Elizabeth.)

My Lord, Govt. House, Sydney, 8 August, 1836.

In my Despatch of the 25th ulto. marked Separate and Confidential, I stated to Your Lordship that circumstances had recently occurred to confirm me in the opinion, I had previously expressed, against the admission of Ecclesiastics into the Colonial Councils, whether of Government or Legislature. The transactions, which I have brought under Your Lordship's notice in my Despatch of this date No. 86, seem to me powerfully to support the assertion that it is not expedient to place the Clergy of any denomination in the Councils, still less to place those of one persuasion only; and I may be allowed to add that recent events strongly indicate the inconvenience, which would arise, if the Individual, who may be considered the principal object of this Correspondence, were admitted to any share in the administration of this Government.

From the communications, which passed between Your Lordship and the Bishop of Australia in London, it must have been evident that he was strongly opposed to the arrangement, which I had suggested, and of which His Majesty's Government approved, for the religious and Scholastic Establishments of this Colony. I understood indeed that, in letters to his friends, Dr. Broughton declared he would not accept the See of Australia,

Objections
to clergy as
members of
council.

Opposition
of bishop to
proposed
system of
education.

unless the Education of the Colonists was placed in his hands and a greater limitation imposed on the Establishments of Dissenters. It was, therefore, with some surprize that I learned at one and the same time the approval of the arrangements I had proposed and the appointment of Dr. Broughton to this See. Upon considering however your Lordship's despatch more closely, I conjectured that the Bishop rested upon his influence with the Council, as it is now constituted, as the means of defeating the objects of Government. His Lordship, being as exclusive in politics as in Religion, has several friends in this body. Upon finding that he could not legally take his seat in the Council, he made the Exertion out of doors, of which I have given Your Lordship some account, placing himself at the head of dissentg. Ministers of all persuasions, whose principles he abhors, and employing as Secretary to the Committee, of which he was Chairman, a Reverend Gentleman who was Editor of a Government Newspaper in the administration of Sir Ralph Darling, and has since been and is now a General Agent, and appears as a paid advocate in the Court of Claims, being deeply if not wholly engaged in secular pursuits of no very distinguished character. The Bishop in his printed Speech* has endeavoured to separate himself from the Committee over which he presided; but this is a vain attempt, and I can not but consider His Lordship responsible for the imputation he has cast upon the British Government and Parliament on declaring that the system of National Schools established in Ireland is subversive to the fundamental principle of Protestantism, and for the libel in the Petition, to which his is the first signature. I allude to the 8th Paragraph, which is in the following terms:—"Because it involves the consequence that to prize the Scriptures is to forfeit the favor and assistance of the Government, an effect alike anomalous, unchristian and opposed to every right British feeling and principle." It requires no argument to convince Your Lordship of the libellous and inflamatory nature of this paragraph.

Whilst the Bishop of Australia was thus conducting the opposition out of doors, the Colonial Secretary Mr. McLeay exerted himself zealously upon the same side within the Council. Some days before the Resolution was moved, the partizans of the Bishop proclaimed that they had a large majority; but, upon the Instruction to the Board, to which I have referred in my public Despatch, being agreed to by those who supported the Govt. measure, three members, who were expected to vote against the Grant for National Schools, divided in favor of it.

The Bishop being thus defeated in Council, and finding that Members of the Church of England and Protestant Dissenters,

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Opposition
of bishop to
proposed
system of
education.

Opinions *re*
national schools
in Ireland.

Opposition of
A. Macleay.

Transactions
in council.

* Note 136.

1836.

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Preference of
bishop for
sectarian
schools.

Opposition
of bishop to
general church
act.

Effect of
hostility of
bishop.

Objections
to bishop as
member of
legislative
or executive
councils.

who have had time to consider the system of Education, no longer feel inclined to oppose it, delivered the Speech of which I have sent a printed Copy, in which His Lordship casts off the Dissenters and declares he can favor no Schools but those in which the Catechism of the Church of England is taught.

Though the Bill* for establishing Places of Christian Worship and appointing Ministers of Religion has passed the Council, it is not to be supposed that it obtained the concurrence of the Bishop of Australia. His Lordship could not procure assistance either from Dissenters or the Church of England to resist it, so acceptable has the measure appeared to the Colonists; but he represented to me both in conversation and by letter his opinion of its iniquity and impolicy, observing that he knew offences must needs come, whilst he denounced to me "the Man by whom the Offence cometh."

It is peculiarly unfortunate for the cause of Education that a Prelate of Dr. Broughton's exclusive principles should hold a distinguished and influential Place in the Colony at this moment. Though I have not the least doubt that a comprehensive system will in due time be established to the great and lasting benefit of this Community, yet it cannot be denied that the Bishop of Australia's uncompromising hostility will throw great difficulties in the way of forming a Board and making other preliminary arrangements. Notwithstanding what is alleged in his Petition as to the liberty of Dissent conceded by Your Lordship on his appointment to the See, I can not suppose that the Extent and violence of his opposition to a measure of His Majesty's Government was anticipated, when he received so distinguished a mark of His Majesty's favor.

His Majesty's Government will, I trust, concur in the opinion I have expressed as to the impolicy of placing Clergymen in the Colonial Councils; but, should not this be the case, I have shewn, I believe, that to allow Dr. Broughton a seat in either, especially at the period when important changes in the Government and Institutions of the Colony are taking place, would be to introduce a source of disunion and strife of the most prejudicial description, and to inflict a lasting injury on the Church of England, by exhibiting in an Exalted Member an exclusive and intolerant spirit, which, however unfairly, would be considered by these Colonists as the characteristic of that Church. I would further observe that it has been found necessary to commit the consideration of the principal details of the Church Act to the Executive Council; and I must fear that unfavourable suspicions would be excited in the minds of Presbyterians, Roman Catholics and Protestant Dissenters, if Dr. Broughton were a Member of that

* Note 138.

Body, by whom the distribution of support to their Churches, jointly with that of the Church of England, is to be considered and measured.

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I have had occasion to represent to your Lordship in former communications the difficulty I have experienced in carrying on the business of this Government, arising from the indisposition to the measures of my administration on the part of the principal Civil Servants. I have shewn the part taken by the Colonial Secretary Mr. McLeay upon this question of general Education. It is certainly not owing to want of Exertion on his part that this measure of Government was not defeated. To the last moment, he opposed it in Council, and, when no division was likely to take place, he spoke at great length against it. He admitted on that occasion having opposed the Governor on four different questions in Council, and seemed to take credit to himself for his moderation. But it is not in the mere vote in Council that this opposition is chiefly mischievous. It is in its effect on many public matters caused by the indifference, delays, and perhaps the infidelities of office. Certainly matters have appeared in the Newspaper opposed to my administration, which seemed to take their origin in official papers not made public; and, without imputing any want of faith to Mr. McLeay, for whose private character I have a sincere respect, his constant intercourse and intimacy with the principal opponents of my Government may have led the Colonists to believe that its secrets are not best preserved, nor its objects promoted in his office. I beg, however, Your Lordship to understand that I am not prepared, and do not intend to bring any charge against Mr. McLeay; but I have thought it right thus to shew how impossible it is that any confidence can exist between us, in order that Your Lordship may fully estimate the difficulty I experience in carrying into effect the measures of His Majesty's Government, when they happen to be opposed to his opinions.

Difficulties
caused by
civil servants.

Opposition of
A. Macleay.

Want of
confidence in
A. Macleay.

If in the next year, as I trust will be the case, a Legislative Assembly shall be established in the Colony in which the Governor shall not sit as President, it is not easy to imagine how the business of the Government can be carried on in that Assembly by a Colonial Secretary, who is not well affected to the measures of the Governor. The difficulties will then be much greater than at present. If I should be obliged to employ another official Person to watch or oppose the Proceedings of the Colonial Secretary, the position of the Government will be discreditable and absurd, and its efficiency necessarily weakened. Such a state of things could not last, and I submit to Your Lordship the propriety of averting the possibility of its occurrence.

Position of
colonial
secretary in
proposed
legislative
assembly.

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Possible
resignation of
A. Macleay.

I beg leave to add that the probability of Mr. McLeay's resignation appears now to be distant. Accounts having reached the Colony through private channels and by the public papers that Mr. Deas Thomson is to succeed Mr. McLeay; the latter has stated that he has no intention of resigning, and, lately in Council, observed in a tone of complaint and anger that many persons were looking for his appointment. It was, however, in the same room just one year previous that he announced publicly he would not be in office at another Session or words to that effect. This Declaration, being noised abroad, led to the applications from more than one quarter of which Your Lordship is aware.

I have, &c.,

RICHD. BOURKE.

SIR RICHARD BOURKE TO LORD GLENELG.

(Despatch No. 87, per ship Elizabeth; acknowledged by lord Glenelg, 22nd April, 1837.)

10 Aug.

My Lord,

Government House, 10 August, 1836.

Transmission of
memorial from
K. Snodgrass.

At the request of Lt. Colonel Snodgrass, an officer of long standing and distinguished service, I have the honor to transmit a Memorial addressed to the Governor and Legislative Council of the Colony, which it was intended to have presented at Council; but it has been thought a more respectful course to obtain in the first instance the approval of His Majesty's Government to the application it contains. The Prayer of the Memorial is for some remuneration for the Services, which Lt. Colonel Snodgrass has rendered to the Colony of a character quite distinct from the duties of his Military Appointment. These services have chiefly consisted in the command of the Mounted Police for a period of one year and ten months, and the charge of the Colonial Ordnance for seven years. The pay now received by the officer commanding the mounted Police is 7s. 6d. a day, and that, which was issued to an inferior ordnance officer during the time Lt. Colonel Snodgrass had the superintendence, amounted to £100 a year with allowances of fuel and light. Lt. Colonel Snodgrass has not stated the amount to which he considers he has a fair claim; but, taking the rates of Pay above mentioned for the periods of Employment and a very moderate charge for fuel and light, the sum would exceed one thousand Pounds.

Claim for
services in
civil capacity.

Estimated
amount of
claim.

Compensation
proposed in
remission of
purchase money
on land.

Lt. Colonel Snodgrass has a large family and, proposing to settle in the country, would gratefully receive such remission in the purchase of Land in remuneration of his services as His Majesty's Government may be pleased to allow. He has not at

any time received a grant of Land or a Town Allotment, which so many others have obtained, nor has his Military Pay in this Colony exceeded 9s. 6d. a day. Besides the Colonial Services to which he has referred in his Memorial, he has for nearly three years discharged the duties of an Executive and Legislative Councillor. I have therefore very earnestly to recommend the prayer of this Memorial to Your Lordship's favorable consideration.

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Services
on councils.

Recommendation in favour
of claims.

I have, &c.,

RICHD. BOURKE.

[Enclosure.]

[A copy of this memorial is not available.]

LORD GLENELG TO SIR RICHARD BOURKE.

(Despatch No. 181, per ship Fortune.)

Sir, Downing Street, 11th August, 1836.

11 Aug.

I have received your Despatches of the 2nd and 26th December last No. 117 and 128, reporting your suspension of Mr. Campbell Riddell from his Office of Executive Councillor for the Colony of New South Wales.

Despatches
acknowledged.

I have, also, received from Mr. Riddell himself two letters on the same subject, dated on the 8th December and the 31st January, with a third letter dated in December, the particular day not being mentioned. In these letters, Mr. Riddell has transmitted to me copies of his letters to Mr. McLeay of the 4th December, and of Mr. MacLeay's answer of the 7th. By some inadvertence on the part of the Officer employed to attach to your Despatches the enclosures to which they refer, this part of the correspondence was omitted in your Despatches, altho' in obvious contradiction to your own purpose. I allude the more particularly to this circumstance, because Mr. Riddell has made the withholding of these letters the ground of a complaint, which I am convinced he will, on further reflection, retract. The Head of a Department must be entirely dependent on others for the accurate discharge of functions merely clerical, and cannot be held responsible for oversights of this kind, which he could prevent only by diverting his attention from his appropriate and much more arduous employments.

Letters
received from
C. D. Riddell.

Neglect to
enclose letters
with despatches.

It has been, on every account, painful to me to receive the intelligence of Mr. Riddell's suspension. The Public interest cannot but be affected disadvantageously by such a schism between the Chief of the Local Government and one of its principal Officers; and, distressing as the event must have been to Mr. Riddell, it was, I am convinced, scarcely less irksome to yourself. I have, therefore, examined every document, connected

Regret at
dispute between
governor and
C. D. Riddell.

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with this subject with the most exact attention, and not without an earnest hope that it might be in my power to reconcile what is due to the maintenance of your Office and authority, with the relief of both Mr. Riddell and yourself from a situation so unfriendly to his comfort and to yours. I proceed to explain, as briefly as possible but without reserve, the conclusions to which those enquiries have conducted me.

Conduct of
C. D. Riddell
as candidate
for chairman
of quarter
sessions.

It is evident that, before the election of a chairman of the Bench of Magistrates at Sydney, Mr. Riddell was aware of the intention to put him in nomination as a Candidate for that office. He possessed this knowledge at a period sufficiently early to have enabled him to announce to the Electors his determination not to serve, if actually chosen. That determination he had, in point of fact, adopted in consequence of his previous communication on the subject with you. Yet Mr. Riddell made no effort to apprise the Magistracy in general of this state of the case, contenting himself with announcing his decision to the one or two Gentlemen, who directly applied to him on the subject.

Opinion
re conduct.

The fault imputed to Mr. Riddell, therefore, is that of silence or inaction on an occasion, on which he ought to have directly interfered to prevent the result, which actually took place. Mere inaction, however, is not justly the subject of censure, unless it amount to the desertion and neglect of a positive duty; and, in Mr. Riddell's case, this also is imputed to him.

Duty of
subordinate
officers to
support
government.

It is the duty of every subordinate officer under your command, whose functions are such as to place him in a very close and confidential relation to you, to make his choice between a cordial and zealous support of your administration or a resignation of the office entrusted to him. To that principle I attach great importance and subscribe to it without reserve. Mr. Riddell, retaining his place as an Executive Councillor, was therefore bound to support you, not with a formal and ceremonious cooperation, but frankly, cheerfully and cordially. He owed to you that duty, which a colleague in office owes to the Head of the Administration under which he serves, a duty sufficiently intelligible, though it may escape precise definition, and on that very account more obligatory.

Duty of
C. D. Riddell
to avoid
election as
chairman.

Now this honorary obligation forbid Mr. Riddell to be passive and inactive on an occasion, when it was evident that the danger had arisen, that he would acquire credit for himself at the expense of the Governor of the Colony. An election in his favor was, under the peculiar circumstances of the case, a defeat, and in that sense an injury to the Head of the Local Administration. Mr. Riddell had it in his power to avert that injury, and therefore ought to have averted it.

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Culpability of
C. D. Riddell.

Such is the charge, and I regret to say that, to a certain extent, it appears to me well founded. Mr. Riddell is, I think, blameable as having failed to discharge a clear official obligation. He was not sufficiently alive to the extent of your reasonable claims upon his support, or to the contingencies in which the Government might, in a certain case, be involved. But here I limit my animadversion. I find no proof and indeed scarcely a suggestion that he was actuated by any wish to thwart your policy and embarrass your administration.

Under such circumstances, perhaps the penalty, which has already been suffered, may be sufficient as a rebuke to Mr. Riddell and as an admonition to others. I should, therefore, have been much indisposed to continue Mr. Riddell's exclusion from the Council, even if the question had been unembarrassed by any legal and technical difficulty. Such, however, is not the fact. On the contrary, a question arises on this case, which appears to me to involve in no inconsiderable obscurity the nature and extent of your powers, respecting the suspension of Members of the Executive Council.

Opinion *re*
suspension of
C. D. Riddell
as executive
councillor.

On referring to your Commission,* and to the Instructions under the Royal Sign Manual by which it was accompanied, I have found some difficulty in reconciling, with each other, such parts of those instruments as relate to this subject. The Commission gives the power of suspension in the most complete and unambiguous terms. Yet, in the clause which provides for filling up vacancies in the list of Executive Councillors, there is no reference to the case of a vacancy created by the suspension of a Councillor. If the Commission alone were to be considered, I should hold your power of suspension to be incontrovertible; but I should, at the same time, maintain that it was not competent to you to fill up the place of a suspended Councillor by a new appointment.

Power of
governor *re*
suspension
of executive
councillors.

But, when I refer to the Royal instructions,* which are incorporated into the Commission and which may be considered of equal authority, an entirely new view of the case presents itself. The Members of the Executive Council are all appointed in the Instructions, not by name, but by their official designations; and the "Treasurer for the time being" is, as such, authorized to sit and vote in the Council; hence arises the difficulty, whether Mr. Riddell could be lawfully removed from the Council, except by transferring to some other person his Office as Public Treasurer.

It appears to me perfectly evident that the Incongruity between your Commission and Instructions originated in the circumstance that, on your departure for New South Wales, former

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precedents were transcribed in this Office hastily and inadvertently, and without due consideration whether they were really consistent and in harmony with each other. The attempt to ascribe any one uniform sense to those documents is therefore very unpromising; but upon the whole the best interpretation seems to be as follows:—

Interpretation
of powers of
governor.

I think that you had power to suspend Mr. Riddell, but that you had not authority to substitute another Councillor in his place, except by suspending Mr. Riddell in his capacity of Colonial Treasurer. Not having found yourself called upon or warranted to proceed to that extremity, your most accurate course would, in my judgment, have been that of leaving Mr. Riddell's place in the council unfilled until His Majesty's Decision could be known. After what I have stated, I need scarcely disclaim any very decided confidence in this interpretation of your Commission and Instructions, though I adopt it as upon the whole the best and the most consistent.

But whatever doubt there may be as to the precise path which should have been followed by you, I can entertain none whatever respecting the legal and technical question, which I am called upon to consider for my own guidance.

Inability
to dismiss
C. D. Riddell
as executive
councillor
without
dismissal as
treasurer.

If I should advise His Majesty to continue Mr. Riddell's exclusion from the Council, I must also advise his removal from the Office of Treasurer, because it is a principle of the existing Constitution of New South Wales that the Treasurer of the Colony for the time being should be one of the Governor's Confidential Advisers. His Majesty, it is true, might so far change that constitution as to render the disconnection of the two Trusts lawful. But to give to such a change a Retrospective effect would be to violate an admitted principle of Justice. I am bound to give to Mr. Riddell the benefit of the law, as it stood at the time when this question was raised, and cannot properly emancipate myself by an act of authority from the dilemma of continuing Mr. Riddell in both his Offices, or removing him from both. To adopt the more rigid course would be to outrun any advice, which I have received from you, and to inflict a penalty far more than commensurate to the offence. I pursue therefore the more lenient method of directing Mr. Riddell's reinstatement in the Council.

Instructions for
reinstatement of
C. D. Riddell.

I trust however that, on resuming his seat in the Council, Mr. Riddell will perceive the propriety of expressing his regret for the error into which he fell with regard to the election of the Chairman of the Quarter Sessions; and it is my duty to add that his continuance in the Executive Council in New South Wales under your administration of the affairs of that Colony

must depend on his rendering to you a zealous and cordial support in every lawful act, which may be done by you in the exercise of that command, even altho' it may be opposed to his own views of Public Policy. Mr. Riddell of course cannot be called to cooperate in any measures, which his own deliberate judgment may disapprove. But a general concert and unity of action between yourself and those officers of your Government, who sit in the Executive Council, is indispensable and if, unattainable by any other means, must be ensured by the retirement of any Councillor, who cannot act in harmony with a Governor, whom it may be His Majesty's Pleasure to sustain in that office.

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Necessity for
harmony in
council.

I will not close this Despatch without expressing my opinion that the Royal Instruction, to which I refer, appears to me inconvenient and to require revision; because I can see no sufficient reason why the Governor should not have the power of suspending from the Executive Council an Officer, whom he might not think it convenient to remove from his office; and I propose to submit for His Majesty's Approbation an additional Instruction for remedying that inconvenience.

Necessity for
revision
of royal
instructions.

You will communicate a copy of this Despatch to Mr. Riddell.

I have, &c.,

GLENELG.

LORD GLENELG TO SIR RICHARD BOURKE.

(Despatch marked "Confidential," per ship Fortune.)

Sir, Downing Street, 11th August, 1836.

In my public despatch of this date on Mr. Riddell's case, I have forborne to advert to your despatch on the same subject dated 2d of December, and marked "Separate and Confidential." I advert to that communication now, not without pain and regret. You there intimate to me your intention to resign the office of Governor of New South Wales in the event of Mr. Riddell's restoration to the Council. I earnestly hope that more mature reflection will have led you to alter that determination. His Majesty's Government would regard your retirement with the more lively concern, and so serious, indeed, would they esteem the prejudice of such an event to the public service that no consideration, less weighty and conclusive than that of rendering impartial justice to all public officers, would have induced them to incur such a risk by the reinstatement of Mr. Riddell at the Council Board.

Despatch
acknowledged.

Regret at
resignation
tendered by
Sir R. Bourke.

The frank and direct terms, in which you have addressed me on this subject, at once encourage and require me to write in the same spirit. I, therefore, do not scruple to express my opinion

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Decision
re case of
C. D. Riddell.

that it is scarcely reasonable to place the Ministers of the Crown in such a Dilemma as that, to which they are reduced by this announcement of your intentions. In Mr. Riddell's case, we have been called upon to pronounce, what may be justly termed, a judicial opinion. We have had to weigh a question, on the decision of which that Gentleman's reputation and future prospects may in no light degree depend. Arduous as this duty is under any circumstances, the difficulty is incalculably enhanced, when we are called to the discharge of it under the pressure of, I will not say a menace, but an intimation which can scarcely fail to exercise some bias on the most dispassionate mind.

Hopes for
withdrawal of
resignation by
Sir R. Bourke.

Acknowledging to the fullest extent your claims on our support, and your right to expect a firm and unbiassed decision on every complaint, which you may prefer against any of your subordinate officers, I conceive that our obligations and yours on the subject are reciprocal, and that we are entitled to your cheerful acquiescence in any judgment which, in the best exercise of our discretion, we may form on any such case, if that judgment shall not, in the slightest degree, impugn the uprightness of your motives, and shall not either directly or by any legitimate inference be injurious to your character and honor. In giving the directions contained in my despatch of this date, no reflection whatever is passed on your conduct or even on your judgment. I entertain, therefore, the fullest confidence that I shall have the satisfaction of learning that you will not hesitate to continue in the discharge of those duties, which you have hitherto performed with so much credit to yourself and so much advantage to His Majesty's Service.

In this hope I have thought myself bound to abstain from laying before The King your conditional resignation.

I have, &c.,
GLENELG.

LORD GLENELG TO SIR RICHARD BOURKE.
(Despatch No. 182, per ship Fortune.)

Sir,

Downing Street, 11th August, 1836.

Transmission
of papers re
mission to
aborigines.

I transmit to you, herewith, copy and extract of two communications, which I have received from the Church Missionary Society on the subject of the state of the Mission to the Aborigines; I also transmit a copy of a reply which I have directed to be returned to these communications.

Request for
land grant
to mission.

You will perceive that the Society are desirous of obtaining the Grant of a portion of Land, which they describe, situated in the vicinity of Wellington Valley, where the Missionaries are

now engaged. I do not anticipate that any inconvenience will result from the granting to the Society's Mission the Land for which they have applied; but if it shall appear to you that the alienation from the Crown of that Tract of Land will be inconvenient, you will assign some other portion in lieu of it.

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The Society are also desirous of obtaining an addition to the present allowance of £500 per annum, which is voted in aid of the Mission, to such extent as to enable them to employ an additional Missionary and Catechist. The Reports, which I have received from the Society, lead me to anticipate eventually much good from the labours of their Missionaries amongst the aborigines, and induce me to request that you will propose to the Legislative Council such addition to the sum now voted, as may be sufficient for the object contemplated by the Society.

Proposed
increase of
annual subsidy.

I have, &c.,
GLENELG.

[Enclosures.]

[Copies of these papers are not available.]

LORD GLENELG TO SIR RICHARD BOURKE.
(Despatch No. 183, per ship Fortune.)

Sir, Downing Street, 11th August, 1836.

I have received your Dispatch No. 24 of the 26 of February last, in reply to mine of the 9th of October, requesting the transmission of enclosures with the duplicate Dispatches; and I have only to observe that you have correctly understood me as referring only to enclosures to Duplicate Dispatches connected with the general administration of the Government of the Colony.

Transmission
of enclosures
to despatches.

I am, &c.,
GLENELG.

LORD GLENELG TO SIR RICHARD BOURKE.
(Despatch No. 184, per ship John.)

Sir, Downing Street, 12th August, 1836.

12 Aug.

I have received your Despatch No. 36 of the 15th March last, reporting that you have despatched the Surveyor General on another Expedition* into the Interior with instructions to trace the River Darling to its supposed junction with the Murray, and then to return by the latter River to the located parts of the Colony.

Despatch
acknowledged.

I approve of the measures which you have taken for the further investigation of that part of Australia, and I trust that no untoward event will occur to prevent the successful execution of

Approval of
exploration by
T. L. Mitchell.

* Note 79.

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the Instructions, which you have issued to the Surveyor General for his guidance. His Majesty's Government will receive with great interest the result of this Journey, as it would appear from your Despatch that much benefit to the Colony may be anticipated from it.

Delay by
T. L. Mitchell
in submitting
journal.

It is much to be regretted that Major Mitchell should have so long delayed the completion of the Map and Journal of his last Expedition,* and that he should have been so indiscreet as to risk the loss of his original Memoranda by taking them with him on his present Tour; but I feel assured that nothing, which activity and zeal can accomplish, will be neglected by you for preventing their ultimate loss.

I am, &c.,

GLENELG.

LORD GLENELG TO SIR RICHARD BOURKE.

(Despatch No. 185, per ship John.)

13 Aug.

Transmission
of papers *re*
subsidies to
dissenting
congregations.

Sir,

Downing Street, 13 August, 1836.

I transmit to you herewith, with reference to my former despatches on the subject of the Ecclesiastical Establishments in New South Wales, Extracts of a despatch which I have received from the Lieut. Governor of Van Diemen's land, relative to the assistance to be afforded from the Colonial Funds to the different Dissenting Congregations in that Colony. I also transmit to you for your information and guidance a copy of a despatch, which I have addressed in reply to Colonel Arthur; and, as the principle laid down in that despatch is equally applicable to the Colony under your Government, you will propose to the Legislative Council the adoption of it in furtherance of the general arrangement which has already been sanctioned with reference to this subject.

I have, &c.,

GLENELG.

[Enclosure No. 1.]

LIEUT.-GOVERNOR ARTHUR TO LORD GLENELG.

Van Diemen's Land.

My Lord,

Government House, 26th January, 1836.

Vote for
R.C. chapel at
Hobart town.

I have already had the honor to report, in my Despatch of the 21st September last, that, in the last session of the Legislative Council, the sum of £1,500 was voted by the Council towards the erection of a Roman Catholic Chapel in Hobart Town, upon the urgent representation of Dr. Polding, who had just arrived from England.

Request for
subsidy for
chapel at
Richmond.

2. On the 9th October last, a further application was forwarded to the Government by the Reverend Mr. Cotham, stating that the Roman Catholics of Richmond had raised by subscription upwards of £700 towards the erection of a place of worship, and requesting pecuniary assistance, in the same manner as it had been afforded towards the building of Protestant Churches.

* Note 10.

Although this application was eventually made by Mr. Cotham, all the preliminary measures originated with Doctor Polding.

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3. An application of a similar description was received on the 14th August from Mr. Turner the Wesleyan Minister at Hobart Town, and Mr. John Dunn, stating that the erection of a chapel at Launceston was in considerable progress, and praying for the Loan of £600 towards the completion of the Building, which had been contracted for at a charge of £1,700.

Request for loan for Wesleyan chapel at Launceston ;

4. The Independent Congregation at Hobart also applied for assistance; they represented that they had erected a chapel in Hobart at a Cost of £1,900, of which £1,480 had been defrayed from private subscriptions and donations, leaving a debt of £420. They expressed their anxiety also to erect a school house and vestry, as well as a Residence for their Minister, and adverted to other liabilities to which their communion is subjected.

and for assistance by Independents at Hobart town.

5. Your Lordship will perceive, from the accompanying extract from the Minutes of the Council, that, some of the Members being of opinion that the Church of England only should be supported, there was some diversity of advice upon the propriety of acceding to these applications, which, nevertheless, conceiving that in doing so I should act in accordance with the views of His Majesty's Government for the religious and moral improvement of *all* classes of this Community, I determined, provisionally, to acquiesce in to the amounts expressed in my Minute, which was read before the Council as illustrative of the considerations which, in the absence of express instructions from Your Lordship's Department, induced me to adopt measures of encouragement towards these several sects, whose claims are in this Country of peculiar urgency, from the mixed character of the population and the importance of endeavouring by every means to remove that Convict taint, the extinction of which, *as regards the rising generation*, cannot, I submit, be purchased by too costly a sacrifice.

Opinion of members of council *re* applications.

Decision by G. Arthur.

6. With regard to the Roman Catholics, I conclude it must have been the intention of His Majesty's Government, in sending out Chaplains and authorizing provision for two in Van Diemen's Land, that places of Public Worship should as a necessary consequence be erected.

Intentions *re* R.C. chapels.

As respects the other communions, whilst I have acted towards them in the manner which, in my deliberate judgment, is the most consistent with reason and sound policy, I have taken every precaution to avoid placing His Majesty's Government in any embarrassment. No vote of the Legislative Council has been taken (although, I doubt not, it would most cheerfully have been given) under which the Parties interested might hereafter have rested a claim; but the required aid has been advanced out of the Revenue derived from the sale of the Crown Lands, and the security of wealthy individuals has been taken, with the distinct understanding that it is very possible they will be required to refund the amount; So that, whilst disappointment has been guarded against, and such funds only appropriated, as will not be required at present for other services, the parties interested have gratefully received the aid which is necessary to complete these several places for public worship. This aid will be of great assistance to them even though it be but temporary, and it is the best expedient, I can think of, to supply at a trifling charge the lamentable want of a more

Precautions to prevent precedents *re* subsidies to churches.

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Request for
approval of
grants.

extensive Church Establishment; and I strongly recommend that the specified sums should be granted in aid of the several communions, and the amount may with propriety, with Your Lordship's concurrence, be charged upon the Land Revenue, which has been credited with the proceeds of the sale of the lands originally reserved to the Church.

To avoid all possible misconception, however, as it may not immediately occur to Your Lordship, it is proper I should state that the Lands were reserved exclusively for the support of the Church of England.

Necessity for
instructions re
subsidies to
churches.

7. The time, I would most respectfully represent, has now arrived in the history of the progress of the Colony, when it should be determined upon what principles, to what extent, and under what circumstances, the countenance and support of the Government should be given to the several communions prevalent in this Colony.

Subsidies
proposed for
church of
England.

8. With regard to the Established Church, I understand the principle approved by His Majesty's Government to be that, in whatever districts there shall be a congregation, who will actually *bona fide* pay down one half of the expense of the erection of a Church, the other half shall be made good from the Colonial revenue; whilst, whenever it has been made to appear, that a sufficient number of children could be collected for education in any district, the Legislative Council has been zealously disposed to vote the sums requisite for the renting or erection of a plain building as a School house, and for the Salary of the Master, Such Schools, however, being open for the reception of Children of *all* Communions.

Sums voted
for schools.

Number of
C. of E.
chaplains, etc.

9. There are at present nine Chaplains and nine lecturers and Catechists, 28 Schoolmasters, and 19 School mistresses, connected with this Establishment. But these are quite inadequate to the wants of the Members of the Church, whose dispersion over a wide extent of Country renders necessary a much greater number of Ministers and teachers than would be requisite, were the rural population here as much concentrated as it is in even the least fertile districts of England.

Necessity for
additional
chaplains;

The immediate extension of the Episcopal Church Establishment is a matter of real and pressing necessity; and I would strongly urge upon His Majesty's Government the necessity which exists for increasing the number of Chaplains upon the Establishment by the appointment of others from the Evangelical party in the Church, for I do not shrink from the avowal that I think Clergymen of other views not at all calculated to promote the interests of religion in this Colony, where the depraved and the poor must be *sought after*!

and for
obtaining
schoolmasters
from England.

10. With respect to the Schoolmasters, Your Lordship is aware that the Legislative Council expressed, when the Estimates were under consideration, a strong opinion upon the necessity of obtaining persons, properly qualified for the office, from England.

In the Colony, it is exceedingly difficult to induce persons of sufficient attainments to accept of situations of moderate emolument, which, in England, would be eagerly sought after by a very superior class; individuals, belonging to which, would willingly oblige themselves there to continue for a certain specified period in the service of the Government.

Such an arrangement, I am aware, has been found to work very badly as regards Mechanics and farm laborers; but it may be fairly

assumed that a similar agreement, formed with persons of cultivated minds, would be found to be practically of more lasting obligation.

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11. As regards the Presbyterians, I am of opinion that they compose a very respectable portion of the community, who are equally competent, as the Members of the Established Church, to meet the necessary expenditure in the erection of Churches; and I am solicitous of being honored with the instructions of His Majesty's Government as to the extent of the support which their Ministers ought to receive. As a Member of the Established Church of England, I do not myself conceive that any danger is to be apprehended to its interests from granting to the Presbyterians in the Colony, as has been done in India, such moderate advantages in the character of, as it were, a quasi Established Church, as shall not be incompatible with the rights of the Established Church of England.

Proposed assistance for Presbyterian church.

12. As respects the Roman Catholic Church, I infer, from the recent appointment of Dr. Polding and the Chaplains who accompanied him, that His Majesty's Government have determined that the Church of Rome shall, to a certain extent, be supported from the Public revenue; but I am desirous to be honored with instructions, as to the degree in which it is desired that this should be done.

Request for instructions re support for R.C. church.

Mr. Ullathorne, the Vicar General, having been ordered by the Bishop to proceed to Van Diemen's Land, it seems necessary that arrangements should be made at once in respect of the Ministrations of two chaplains of the Roman Catholic Church.

As I reported in the Estimate Despatch* in reference to the Expenditure for 1836, the sum of £1,500 has been voted for the erection of a Roman Catholic Chapel at Hobart Town, and Dr. Polding has requested that a school house should be built in connection with it; but I have approved of the latter being erected only, until I am honored with Your Lordship's instructions upon the subject.

Vote for R.C. chapel at Hobart town.

With regard to the proposed chapel in Hobart Town, there is, I may observe, a very unfortunate schism between the Priest and his congregation, so that I apprehend there is little probability of their contributing towards a new place of worship, notwithstanding the ruined condition of the frail and half finished building, hitherto appropriated to that service; indeed, with very few exceptions the Roman Catholics in Hobart Town are very poor, and no extensive contributions can be expected from them.

Improbability of contributions at Hobart town.

Dr. Polding has been more successful, as appears from Mr. Cotnam's letter to which I have already adverted, in his call upon the liberality of the Roman Catholics of Richmond and its vicinity, where, a piece of ground of the value of £200 having been given for the purpose, £700 have been subscribed towards the erection of a chapel.

Subscriptions obtained at Richmond.

Under such circumstances, it appeared to me to be my duty, in furtherance of the apparent views of His Majesty's Government, to afford the additional assistance of £500, which will be requisite for the completion of the Chapel.

Grant for chapel at Richmond.

The Roman Catholics have hitherto been a very inconsiderable body in this Community, possessing one very rude chapel in Hobart Town and a school in connection with it.

The arrival of Dr. Polding, however, has excited a degree of energy, which has given them a more influential appearance, and

* Marginal note.—Despatch No. 77, 2 October, 1835.

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Influence of
Wesleyan
mission.

has had the effect of recalling some persons, who had been in the habit of attending the Established Church.

13. With regard to the Wesleyan mission, I am bound to say, looking to the peculiar circumstances of this Colony as regards the Prisoner population, who are more especially under the care of the local Government, that they have rendered the most essential service to morals, if not to religion, for it is within my own knowledge that, at least, the outward conduct of many of the Convicts has been reformed by the Missionaries, sent forth from that interesting body. I perceive errors among them, which I should wish could be avoided; and I am fearful that some of their followers have been drawn to refer to a change of heart, what is, in reality, nothing more than a strong feeling of excitement; nevertheless, their system of instruction appears to be admirably adapted to attract the lower classes, and to win them especially from low degrading vices.

Loan to
mission.

Minister
appointed at
Port Arthur.

The Wesleyan Mission have already received a loan of £800 towards the extension of the Chapel and School house in Hobart Town; and one of their Ministers has been appointed, with great benefit to the public service and under the express sanction of His Majesty's Government, to the Ministry at the Penal Settlement of Tasman's Peninsula.

Support for
Independents.

14. With regard to the Independents, I feel greater difficulty in expressing my sentiments than upon any other communion; their minister and the leading persons among them, however, are very respectable members of the Community; and, as I have seen no indication of opposition on their part to the Established Church, and have found them to be as good and as loyal people as any others of His Majesty's subjects, I have not felt that I could, with propriety, withhold my support from them, more especially on such an occasion.

Objections to
support of
religions except
church of
England.

15. I very fully appreciate the views entertained and expressed in his opinion before the Council by the Chief Justice,* and other equally reflecting and excellent persons, who seem to dread any countenance being given to other sects, as injurious to the interests of the Established Church.

Opinion by
G. Arthur in
favour of
religious
tolerance.

I go all lengths with them in the conviction that some Establishment is necessary; but I do not think that the support of an exclusive system was, at any period, wise; it is not only impolitic, and defeats the end aimed at, but in the present day I conceive it would be impracticable to support it without such an opposition as would shake the Church itself.

The great mark to be set up, I conclude we shall all agree, is to increase and establish the Spiritual Church of Christ; and it is only as to the best mode of accomplishing this that a diversity of opinion exists.

Absence of
instructions
re religious
affairs.

During the 21 years I have been entrusted under the Colonial Department with the administration of this Colony and the British Settlements on the Coast of Honduras,† I have no recollection of receiving any specific instructions upon religious affairs except those contained in the order of Council in the appointment of an Archdeacon to these Colonies, so that I have been left to the exercise in a great degree of my own judgment, *that* has led me to incline strongly in favor of the Established Church; notwithstanding its imperfections in some particulars, into which I need not now enter. In my Despatches to the Colonial Department, I

* Note 140.

† Note 141.

have recommended in the strongest manner the appointment of additional Chaplains, and I have brought up my own family in connexion with that communion; but, at the same time, I have respected, and uniformly and consistently acted in the most conciliatory spirit towards other communions; and I have felt a pleasure in acceding to every application for assistance, which could reasonably be afforded; and the result has been, that, notwithstanding the difficulties of no ordinary nature with which this Government has had to contend, there has been no religious strife, and its measures have been equally supported by respectable persons of all sects, which, I trust, is some proof that the system, which has been pursued, has been at least sound in policy, and I earnestly hope and believe it has been pursued without any sacrifice for the sake of expediency to the cause of vital religion.

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Policy of
G. Arthur
towards
religion.

16. Before proceeding to the consideration of another branch of this interesting question, I may just observe that I have omitted to advert to the claims of the "Society of Friends," not because I do not entertain a high opinion of their character as useful members of Society, but because their number is so inconsiderable as to render apparently impracticable any attempt at the erection of a Chapel. They have, however, lately agitated the question, and I should be gratified by knowing Your Lordship's views respecting them.

Claims of
society of
Friends.

17. From a consideration of the details, which I have thus brought under Your Lordship's attention, it will be evident that, were the principle of granting aid to the different communions fully admitted and acted upon too liberally, the principal difficulty to be contended with would be the want of the requisite funds. There is no doubt that the extension of pecuniary assistance to all would render a tax for the support of religion less unpopular than it otherwise would be; still I conceive that, under any circumstances, such an experiment would be involved in many difficulties and that our resources should therefore be husbanded with the utmost care.

Problem of
financing
subsidies.

The more however I consider the question of Church policy, the more important does it appear that some fixed provision, independent of Legislative enactment, should be made for the support of the Established Church; and I am not aware of any mode of effecting this object, which could be brought into beneficial operation more easily, than the reviving those claims of the Church to a certain portion of the Waste lands of the Crown, which might most advantageously be satisfied by hereafter appropriating to her support the quit rents exigible throughout the territory.

Necessity for
fixed provision
for church of
England.

This would form a small but secure fund, upon which the temporal interests of religion might rely even under adverse circumstances, whilst, in more prosperous periods, it would impress upon her position a character of firmness, stability and independence, which would not be otherwise than favorable to the extension of her influence, and with it, under a careful selection of Evangelical Ministers, to the diffusion of enlightened and at the same time practical views of scriptural christianity.

To shew the grounds upon which the right of the Church to a certain portion of the proceeds of the lands, which have been alienated by the Crown, is founded, it may be expedient that I should draw Your Lordship's attention to the circumstance that

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its claims in this respect are based upon something more than a mere expression by the Government of its design to sanction an appropriation.

Claim of church
to support from
land revenues.

The Commission,* which was nominated in 1825 under the sanction of the Royal Sign Manual, was instructed to set apart a seventh of the waste lands for the support of the Church, and *actually* did to a certain extent carry into effect this intention, which received an additional confirmation on the 16th February, 1829, when I was authorized to sell a certain portion of the lands so set apart for the better maintenance of the clergy and Schools. Further, on the 19th April, 1830, it was directed that the Church lands should be alienated under quit rent also, with a view to the application of the proceeds in aid of the Establishment to which they belonged.

Altered system
for support
of churches.

The design of supporting the Church from the public revenue, rather than by endowing her with the proceeds of the lands assigned to her use, originated at so late a period as the 14th February, 1831, when my attention was drawn to the circumstances that it was not intended, under the Royal Instructions, to appropriate lands in aid of the Church and Schools, but to maintain them out of the ordinary revenue.

Interpretation
of instructions.

These new Instructions, however, have been held, as they have no retrospective operation, not to have cancelled the apportionment formerly made by the Commissioners; and the Church may consequently be supposed to retain a property in the waste lands of the Crown, certainly not equal in extent to that originally contemplated by His Majesty's Government, but still, by no means inconsiderable, the effect of which would be to distribute the quit rent income between it and the Government, in such a manner, the probable total being by no means great, as to render the portion accruing to each, unavailing for any important end, whilst the undivided amount might be of great benefit, as a secure provision for the Church and School Establishments.

I have, &c.,

GEO. ARTHUR.

[Sub-enclosure.]

Deliberations
of executive
council *re* votes
for religious
purposes.

EXTRACTS from the Minutes of the Executive Council on the 14th of October, 1835.

PRESENT:—His Excellency The Lieutenant Governor; His Honor The Chief Justice; The Senior Officer of His Majesty's Land Forces; The Rural Dean; The Colonial Secretary; John Gregory, Esq.

Read a letter, dated 9th October, 1835, from Mr. Cotham, one of the Roman Catholic Chaplains, stating that the Roman Catholics of the District of Richmond had raised by subscription upwards of £700 towards erecting a place of worship, and, as it was desirable that accommodation should be afforded to the Military and Prisoners, who professed that religion and were stationed in that neighbourhood, he begged that pecuniary assistance might be extended on the part of the Government in the same manner as was afforded towards the building of Protestant Churches.

Mr. Gregory advised that the sum of £500 should be given towards this object upon the usual terms, subject to a reference to the Secretary of State.

* Note 142.

The Colonial Secretary observed that £1,500 had already been given for Catholic purposes, upon more favorable terms even than in the instances of Protestant applications; he could therefore advise that no further advance should be made, until the decision of the Secretary of State should be known.

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Deliberations
of executive
council *re* votes
for religious
purposes.

Major Fairweather and the Chief Justice concurred with the Colonial Secretary.

Read a letter, dated 14th of August, 1835, from Mr. Turner the Wesleyan Minister at Hobart Town, and Mr. John Dunn, stating that the Methodists of Launceston had commenced the erection of a chapel at that place and that the Contract had been taken for it at £1,700; £600 had been raised by subscription, and they prayed that Government would be pleased to grant them on loan £600, bearing interest for a term of two or three years or until the pleasure of His Majesty's Government could be known. They expressed their readiness to give any security for the repayment of the money.

Mr. Gregory advised His Excellency to accede to this request upon the terms offered, viz., £600 at an interest of 5 per cent.

The Colonial Secretary thought that it would be advisable to await the result of a reference, which, they had been informed, should be made to the Secretary of State; he objected however to the making of any such Grant on the ground that the interest had not been paid upon the loan for erecting the chapel in Hobart Town.

Major Fairweather concurred with Mr. Gregory.

The Chief Justice was of opinion that no gift or loan should be made as he could not advise the Government to give these sects any encouragement whatever.

The Rural Dean observed that, under the impression that there was not accommodation for above a third of the inhabitants in the Church at Launceston, and as the Wesleyans at Hobart Town had received assistance under similar circumstances, and as the Catholics would now be more than ever disposed to proselytize, he thought it desirable that assistance should be afforded to such Communions as were not so much opposed to the Doctrines of the Church of England as the Roman Catholics were; and he would therefore recommend in this instance such an advance upon loan as had been given in Hobart Town.

The Rural Dean took this opportunity of observing, in reference to the erection of Churches generally, and more especially in Trinity Parish where the inhabitants were poor, that he thought it desirable that Government should not limit itself to the affording of assistance only in cases where one half was subscribed.

Read a letter, dated 12th of October, 1835, signed by six gentlemen on the part of the Independent Congregation in Hobart Town, stating the expenses they had incurred in the erection of a Chapel in Brisbane Street; that the support of two Ministers and two Sunday Schools wholly devolved upon the private funds of the Congregation; that the erection of a Schoolhouse and residence for a Minister was very necessary; and that they were in debt to the extent of £420; they therefore prayed that the Government would grant £1,000 towards liquidating the debt and erecting the buildings already mentioned.

Mr. Gregory advised that £500 not £1,000 should be advanced to the Independents upon loan, bearing interest at 5 per Cent.

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of executive
council *re* votes
for religious
purposes.

The Colonial Secretary concurred with Mr. Gregory; but, as there was no very pressing necessity for advancing the money, he thought that the sanction of the Secretary of State should be previously obtained.

Major Fairweather and the Rural Dean concurred with the Colonial Secretary.

The Chief Justice was opposed to any assistance being given.

EXTRACT from the Minutes of the Executive Council on the
19th of October, 1835.

PRESENT:—His Excellency The Lieutenant Governor; His Honor The Chief Justice; The Senior Officer of His Majesty's Land Forces; The Rural Dean; The Colonial Secretary; John Gregory, Esq.

The Lieutenant Governor read the following Minute:—

"I have considered the opinions expressed by the Council at the last Meeting, when the applications for assistance by the Wesleyan Congregation, in respect of a Chapel in the course of erection at Launceston, by the Independent Congregation for the purpose chiefly of defraying the debt incurred by them in erecting a place of worship in Hobart Town, and by the Roman Catholics who have subscribed £700 towards the building of a Chapel at Richmond were brought under consideration in Council.

"With respect to the application of the Roman Catholics of Richmond, it is in the knowledge of the Council that the population in that neighbourhood and in the vicinity of Sorell, comprising as it does many families of that persuasion who settled there at the period of the first establishment of the Colony, have enjoyed but few opportunities of receiving instruction, and that drunkenness and its attendant vices are therefore comparatively prevalent. Under these circumstances and with the view of improving the moral state of that Community, I consider it expedient that the sum of £500 should be advanced in aid of the contemplated building; and I am the more induced to adopt this measure without delay from the circumstance that a Clergyman has been appointed to officiate there by the Roman Catholic Bishop, who assured me that he had been informed by Mr. Under Secretary Hay that His Majesty's Government would acquiesce in any such expenditure as might be deemed expedient.

"With regard to the Wesleyans and Independents, I have formed, after a very anxious enquiry and from personal observation, the deliberate opinion that these sects and especially the former have exerted themselves very much and with great success in disseminating religious instruction especially amongst the lowest class in this Country. The Wesleyans have, on the present occasion, made a most liberal effort to erect a commodious place of worship in Launceston at an expense of between £1,700 and £2,000, in which, in all probability, will be hereafter assembled a Congregation, the major part of whom, but for the accommodation thus afforded, would be altogether without religious instruction.

"I think it proper, therefore, under the strong impression that the measure will accord with the views of His Majesty's Government that the advance of £600 should be authorized to the Wesleyans in aid of the completion of the chapel at Launceston, the building of which is far advanced.

"The Independents have erected a chapel in Hobart Town capable of accommodating 500 persons at an expense of £1,900, in liquidation

Decision by
G. Arthur *re*
grants for
religious
purposes.

of which £1,480 have been raised solely by Private Subscription and donations, leaving a debt of £420, £300 of which bear interest at the rate of 10 per cent. Nevertheless the want of a Vestry and Schoolroom having long been felt a serious inconvenience, the Congregation are anxious for their erection, but are unable to meet the expense: to relieve the Congregation therefore from the debt, they have incurred, and to enable them to erect a School, it seems to me exceedingly desirable to acquiesce in an advance being made to the Congregation to the extent of £500.

"I would observe, in reference to the opinion that no encouragement should be afforded to these sects, that, not being aware upon what particular grounds such advice is founded, I can only say that I have been unable to discover anything in their conduct to render them undeserving of support. On the contrary, the exertions particularly of the Wesleyans have been found to be most beneficial in the instruction of the Convicts and lowest classes, many of whom have through their exertions, been at least in their outward conduct reformed.

"The Council are aware that the sum of £500 has been voted by the Legislative Council to assist the Scotch Presbyterians in Launceston in defraying the expenses of the erection of a church in that Town at a charge of £1,200.

"In the sum, expended for this purpose, have been absorbed £300 originally destined for the erection of a Parsonage, and the Congregation are unable to raise the additional funds required.

"This expenditure appeared to be so desirable that it was included in the Estimate for 1836.

"I should wish to record my deliberate opinion that, until much more extensive assistance is afforded to the Established Church, such advances as these, in aid of other Religious Communions, must necessarily be made, or a large class of the Community will be without any religious or moral instruction whatever. A state of things exists in this Colony unknown in other Communities; and, if every effort be not made to reform by religious instruction the lowest orders, and especially the Convict Population, all other measures to reclaim them must be, if not wholly inoperative, at least of very transitory advantage."

[Enclosure No. 2.]

LORD GLENELG TO LIEUT.-GOVERNOR ARTHUR.

Sir, Downing Street, 31st July, 1836.

I have the honor to acknowledge the receipt of your Despatch of the 26th Jany., 1835, No. 14.

My Dispatch, No. 103 of the 31st January last, will have already informed you of the views and intentions of His Majesty's Government with regard to the general arrangement to be hereafter adopted for the extension and support of the means of Religious Worship and Instruction in New South Wales and Van Diemen's Land. Adhering to that arrangement as the basis of the Law which, I think, ought to be passed on this subject, I am yet fully prepared to admit that ample encouragement ought to be afforded to all Classes of Christians in those Colonies to make adequate provision, according to their own forms of Worship, for Religious Instruction. While, therefore, a broad and obvious distinction exists between the leading denominations of Christians in the Colony, each

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Decision by
G. Arthur re
grants for
religious
purposes.

Instructions
for grants to
religions of all
denominations.

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Approval of grants made by G. Arthur.

Authority for further grants.

possessing a recognized governing Body, and those separate Congregations, which may exist either independently of any other or in connection with various Bodies of Dissenters, I think that the latter may have a fair and reasonable claim to some pecuniary aid towards the provision, which they are anxious to make for the religious Instruction of their respective Members. I have, therefore, much pleasure in expressing to you my entire approbation of the aid, which you have sanctioned to the several Dissenting Congregations mentioned in your Dispatch. I have further to convey to you authority to give your assent, subject to the final confirmation of His Majesty's Government, to any Grant which the Council, after full consideration of the grounds on which the application rests, may feel it right to vote in aid of the voluntary contributions of any denominations of Dissenters in those Colonies for the purpose of Religious Worship and Instruction. It will of course be required that the conditions, on which such aid is to be afforded, are to be in no case more favorable than those attached to Grants for a similar purpose to the three principal Religious Bodies included in the general arrangement before referred to.

I am, &c.

GLENELG.

SIR RICHARD BOURKE TO LORD GLENELG.

(Despatch No. 90, per ship Elizabeth; acknowledged by lord Glenelg, 26th March, 1837.)

My Lord, Government House, 13 August, 1836.

Transmission of memorial from J. Harrison and H. Bull.

I have the honor to forward, pursuant to Regulation, a Memorial addressed to Your Lordship by Messrs. John Harrison and Henry Bull, praying compensation for the loss sustained by them through the wreck of the Schooner Friendship at Norfolk Island in May, 1835, attributed by them to the insufficient mooring of the Buoy, which was laid down by His Majesty's Ship Alligator during her visit to these Seas in the previous year.

Claim for loss of schooner Friendship.

I have no means of collecting any further evidence of the precise cause of the disaster than is brought forward in the Memorial. The extent of the loss not being clearly stated, I called on the Memorialists for additional information on this point, the reply to which alleging its amount to be about £1,500 I have the honor to transmit. Should any compensation be allowed, distinct proof of the amount of loss would of course be called for. As the Memorialists apply to receive compensation in Land estimated at 5s. an acre, it may be proper to observe that a remission of a fixed amount on purchase by competition is the only safe way, by which Land can be allowed in lieu of money, as otherwise the Land selected might be worth many times the sum intended.

Proposed form for compensation.

I have, &c.,

RICHD. BOURKE.

[Enclosure.]

[A copy of this memorial is not available.]

LORD GLENELG TO SIR RICHARD BOURKE.
(Despatch No. 186, per ship John.)

1836.
14 Aug.

Sir, Downing Street, 14th August, 1836.

I have received your Despatch No. 123 of the 23d December last, reporting the circumstances under which you had thought it right to withhold, from three Convicts, the Conditional Pardons for which you had recommended them, and which you had received His Majesty's authority to issue. Despatch acknowledged.

Having referred the subject for the consideration of Lord John Russell, his Lordship has informed me that, as it appears from your statement, all, which is required and directed to be done by the 33d Section of the Act of Geo. 4, Cap. 83, had been fulfilled, his Lordship is of opinion that you had no power to suspend issuing the Pardons to the three Prisoners in question. Disapproval of withholding of conditional pardons.

I am, &c.,
GLENELG.

LORD GLENELG TO SIR RICHARD BOURKE.
(Despatch No. 187, per ship John.)

Sir, Downing Street, 15th August, 1836. 15 Aug.

I have received your despatch No. 114 of 27th of Novr. last, enclosing a Memorial from Mr. E. W. Rudder, praying for a Grant of Land under the old Regulations. Despatch acknowledged.

You will have the goodness to inform Mr. Rudder that, as it appears he was apprised, before he left this Country, that he was not to expect the indulgence which he now Solicits, I must adhere to the decision adopted in his case by the Earl of Ripon. Refusal of request by E. W. Rudder re land grant.

The explanation, contained in your dispatch, of the delay which occurred in measuring out the land purchased by Mr. Rudder, is satisfactory.

I have, &c.,
GLENELG.

SIR RICHARD BOURKE TO LORD GLENELG.
(Despatch No. 91, per ship Elizabeth; acknowledged by lord Glenelg, 15th April, 1837.)

My Lord, Government House, 15 August, 1836.

I have the honor to transmit a copy of the votes and Proceedings of the Legislative Council on the 11th inst., by which it will appear that the Council recommended payment to the Revd. Dr. Lang out of the Revenues of the Colony of a sum of one Hundred and Sixty pounds expended by him in procuring passages to this Colony for certain Presbyterian Ministers of the Church of Scotland. These Ministers were not brought out at the instance of the Government, but were, soon after their arrival, Vote by council for passages of Presbyterian clergy.

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and still are employed in duties for which Salaries are paid from the public Treasury. As it has been usual to charge to the Colony the passage money of Ministers thus employed, I concur in the propriety of the payment recommended by the Council.

I have, &c.,
RICHD. BOURKE.

[Enclosure.]

[This was a copy of the "Votes and Proceedings" of the legislative council, dated 11th August, 1836.]

LORD GLENELG TO SIR RICHARD BOURKE.
(Despatch No. 188, per ship John.)

16 Aug.

Sir, Downing Street, 16th August, 1836.

Despatch
acknowledged.

I have received your Dispatch No. 9 of the 26th January last, enclosing a Letter from Mr. T. P. Macqueen, in which that Gentleman has advanced a claim, in behalf of Mr. Hart Davis and his Son, to an exemption from Quit Rent on 30,000 Acres of Land granted to them by order of Lord Bathurst in the year 1825.

Refusal
to grant
exemption
from quit rent
to H. Davis
and son.

I have to acquaint you in answer that I cannot find, either in your Dispatch and its enclosures or in the Records of my Office, the proof of any fact, which would justify me in acceding to the request preferred by the Representative of the Messrs. Hart Davis; and I, therefore, think it indispensable to insist upon the punctual payment of the very moderate Quit Rent of 2d. per Acre, upon a Grant of such unusual extent and value, as that made to those Gentlemen.

I have, &c.,
GLENELG.

LORD GLENELG TO SIR RICHARD BOURKE.
(Despatch No. 189, per ship John.)

17 Aug.

Sir, Downing Street, 17th August, 1836.

Despatch
acknowledged.

I have received your despatch No. 21 of 23 February last, enclosing a petition from Charles William Roemer a Native of Germany, residing in Sydney, praying that he may be made a Denizen of this Country.

Letters of
denization for
C. W. Roemer.

In deference to the judgment which you have expressed as to the fitness of Mr. Roemer to receive that privilege, I have advised The King to authorise, and His Majesty has accordingly authorised the grant of Letters of Denization to him, in conformity with the provisions of the Colonial Act of the 9th Geo. 4th, No. 6.

I have, &c.,
GLENELG.

LORD GLENELG TO SIR RICHARD BOURKE.
(Despatch No. 190, per ship John.)

1836.
18 Aug.

Sir, Downing Street, 18th August, 1836.

I have received your Dispatch No. 109 of the 21st November last, with which you have forwarded a Memorial from William Henry, praying that he may be allowed to retain possession of 100 Acres of Land which he has occupied for a series of Years, or that he may be compensated for its loss in Land elsewhere.

Despatch acknowledged.

It is impossible to peruse this case without entertaining a strong desire to grant some relief to the Applicant. He appears to have lived for 20 Years on his Farm, and by means of it to have supported his Family during all that period. He was ultimately dispossessed of the Land in favor of another person, for no reason which is stated, excepting that he (Henry) held the Property not in Fee simple, but as a Tenant of the Crown. In the peculiar circumstances of New South Wales, such a Tenant, applying for a Grant of his Land on the usual terms, had claims far superior to those of other applicants; but it appears that, although those claims were advanced by him, a person of the name of Ball was preferred without any apparent reason whatever. Had Mr. Henry been the Tenant of a private Landlord, he would, on that supposition, have had a very high claim on the consideration of the Owner of the Land, which few Landlords would have hesitated to admit.

Opinion in favour of claims of W. Henry.

I observe that the Surveyor's Report, which is said to have been unfavorable to Mr. Henry's claims, is not amongst the enclosures to your Dispatch; neither do you contradict or notice the statement, made in the Memorial, that the Surveyor General himself had acknowledged that Report to have been made under a misapprehension of the facts of the case, which, had he correctly understood them, would have induced him to adopt a different decision.

Under these circumstances, I have to request that you will favor me with a further Report upon this claim.

Report required.

I have, &c.,
GLENELG.

LORD GLENELG TO SIR RICHARD BOURKE.
(Despatch No. 191, per ship John.)

Sir, Downing Street, 19th August, 1836.

19 Aug.

I have received your despatch No. 23 of 25th of February last, enclosing a Memorial from Commander Ogilvie of the Royal Navy, praying that he may be allowed to give up his half pay

Despatch acknowledged.

1836.
19 Aug.

Refusal of
commutation
of half pay for
W. Ogilvie.

and the pension to his wife in the event of her surviving him, for an equivalent in land or in remission of purchase money upon Land.

As there is no precedent of Naval half pay having been commuted for Land in New South Wales, and as the effect of such a commutation would be to employ the unsettled lands, not for any Colonial Object but to relieve the Revenues of this Country from a charge to which they are liable in favor of the applicants, I do not feel myself at liberty to sanction Commander Ogilvie's application.

I have, &c.,
GLENELG.

LORD GLENELG TO SIR RICHARD BOURKE.
(Despatch No. 192, per ship John.)

20 Aug.

Assignment
list of convicts
per ship *Henry
Wellesley*.

Sir, Downing Street, 20th August, 1836.

Having referred for the consideration of Lord John Russell your Despatch No. 34 of the 5th March last, respecting a supposed inaccuracy in the Assignment List of the Convicts sent out in the "*Henry Wellesley*," I have the honor to transmit to you a correct Assignment List of the whole of the Females transported in that Vessel for the purpose of being substituted for the former List transmitted with those Prisoners.

I have, &c.,
GLENELG.

LORD GLENELG TO SIR RICHARD BOURKE.
(Despatch No. 193, per ship John.)

21 Aug.

Approval of
assignment of
and indulgences
for convicts.

Sir, Downing Street, 21 August, 1836.

I have referred for the consideration of the Secretary of State for the Home Department your Despatch No. 25 of the 27th February last, in which you request permission to assign within the body of the Colony, and to grant to them the Indulgences usually bestowed for good conduct, the Seven Convicts named in the margin,* who are now at Moreton Bay under special Orders received on their respective arrivals in the Colony which directed their transmission to a Penal Settlement.

I have the honor to acquaint you, in answer, that Lord John Russell has informed me that he sees no objection to acceding to your recommendation in favor of these Convicts.

I am, &c.,
GLENELG.

* *Marginal Note*.—Oliver Collins, Robert Cutts, Wm. Kiddy, Richd. Green, Richd. Sanders, John Spenser, Willm. Wootton.

LORD GLENELG TO SIR RICHARD BOURKE.

1836.
22 Aug.

(Despatch No. 194, per ship John.)

Sir,

Downing Street, 22nd August, 1836.

I have received your Despatches numbered 7, 29, and 30, and dated respectively on the 24th January and the 1st March last. From these communications I learn what were the motives, which induced you to issue a revised Commission of the Peace in the Commencement of the present year, and what were the immediate results of that measure.

Despatches
acknowledged.

I have attentively considered the remonstrances of the gentlemen, whose names did not appear in the new Lists of Magistrates; and I proceed to state, for their information as well as your own, what are the motives which have induced me to advise His Majesty to sanction and approve your proceedings on this occasion.

Reasons for
approval of
new commission
of peace.

Although you have fully explained for my own satisfaction the reasons by which you were guided in the omission of the names of Messrs. Lamb, Bingle and Mudie, I do not think it necessary or desirable to enter upon a discussion of them. Altho' nothing is laid to the charge of these Gentlemen, impugning their integrity or their honour, yet, as the circumstances which induced you to think them ill adapted for Magisterial office, reflect on their discretion and temper, I do not express an opinion even on a charge of that nature, which the parties concerned have not had an opportunity of controverting. I shall consider the case, therefore, precisely in the same light as I should have viewed it, if your Report had consisted of a bare declaration of your opinion that Messrs. Lamb, Bingle and Mudie were not, in your judgment, Gentlemen to whom the office of Justice of Peace could be advantageously entrusted, and as if no specific fact whatever had been alleged in justification of that opinion.

Omission of
J. Lamb,
J. Bingle and
J. Mudie.

In proceeding to the consideration of this subject, I would in the first place advert to a distinction which, although of no light importance, seems to be overlooked by the Gentlemen who have remonstrated against your proceedings. I advert to the difference which subsists between the erasure of the name of an Individual from the Commission of the Peace, and the omission of his name in the List of Magistrates when a new and general Commission is issued. In the former case, the measure seems necessarily to presuppose some misconduct on the part of the person who is thus removed from an office of trust and Honour; and the unfavorable impression, which it is calculated to produce on the public mind, justly entitles him to demand a distinct statement of the grounds of the removal. But, when the existing

Difference
between
dismissal of
magistrate and
omission
from new
commission.

1836.
22 Aug.

Difference
between
dismissal of
magistrate and
omission
from new
commission.

Commission of the Peace is revoked to make way for new and revised List of Magistrates, the case is otherwise. It is the avowed and well understood object of such a proceeding to review the choice which has been formerly made of the Justices of the Peace, and to make from the whole Body of Society a new selection, with the benefit of the experience, which former times have afforded of the qualifications of the various Candidates for the Magistracy. Thus an opportunity is afforded of passing over any Members of the former Commission who, without the slightest imputation of delinquency, may yet have been found wanting in those qualities, whether natural or acquired, which are indispensable for the correct discharge of such duties. On such occasions, no man is reasonably entitled to demand an explanation of the motives, which may have led to the omission of his name, because that omission implies no reproach, but is to be accounted for by the obvious and simple consideration that a sufficient number of persons have been found with qualifications for the Magistracy superior to his own.

Practice in
England and
Ireland for
revision of
commissions
of peace.

In England, it has not been usual in recent times to revise the General Commissions of the Peace. In Ireland on the other hand, such revisions have neither been infrequent nor of any remote date. It would be superfluous to explain the grounds of this distinction with which you are perfectly familiar. I advert to it, in order to show that in this case that weight is given to local considerations and local circumstances, which, in the case of striking out the name of an individual Magistrate, ought not to be given to them.

Necessity for
revision of
commissions
in colony.

In New South Wales, there are reasons far more urgent, than any which the state of Ireland affords, for this occasional review and correction of the Magisterial Lists. In no other part of the World is the Composition of Society so peculiar and critical; and in no other part of the British Dominions are the Magistrates invested with powers so large, so capable of dangerous abuse, and demanding so constant an exercise of sound judgment, temper and moderation. If the Lists were not from time to time revised, these powers must be permanently left in the hands of any man to whom they had once been committed, unless he should be guilty of some positive offence, which would justify his dismissal. But men, estimable and blameless in all their personal conduct and private characters, may yet be totally unfit for so delicate a duty, and the unfitness may be of such nature as not to be brought to light, except by actual proof of incapacity. It can hardly be maintained by any one that, of such experience when acquired, the Executive Government ought not

to avail itself by the removal of such Magistrates. But, as I have shewn, such removals could not be accomplished except by those occasional revisions of the entire List.

1836.
22 Aug.

On this general principle, you are entitled to my support in confining the office of Justice of Peace in New South Wales to those whom, in the result of your experience, you judge capable of discharging it for the public good. I am aware that this is a great trust, which I thus place in your hands, and capable of course of perversion to improper purposes; but, if I could entertain any apprehension of such abuse on your part, I should feel it my duty to advise His Majesty to withdraw from you that confidence and favour, which at present you so deservedly enjoy.

Confidence in selection of justices by Sir R. Bourke.

With regard to the Public Officers of your Government whose names have been left out of the new Commission, you have assigned for their exclusion reasons, which, after full deliberation, appear to me conclusive. After an attentive consideration of their remonstrance, I must add that the perusal of that document confirms and fortifies the conclusion, which I had derived from your own statement of the case.

Approval of exclusion of public officers.

I agree with you that the combination of subordinate employments in the Public service with the very peculiar duties of a Magistrate in New South Wales is greatly to be deprecated; and I think that you acted with your wonted Judgment and decision in availing yourself of the first opportunity for bringing that system to a close. The remonstrants (among whom I of course do not reckon any of those who did not subscribe the Paper with their own hands) have adopted a tone, which, I trust, they will on further reflection think a just subject of regret. I should have been better satisfied, if the reflection cast by them on your official conduct had been expressed in more direct and in less studied and circuitous terms; because what is thus cautiously suggested is, and must be more offensive to the Head of the Local Government, than the same thing if actually said in plain though respectful Language.

Objections to public officers as magistrates.

Criticism of protest by civil officials.

I am well persuaded of your entire concurrence in my own opinion, respecting the nature and the extent of the deference to be required from the Ministerial Officers under your authority, and that you would disavow with sincerity any wish to reduce them to a servile support of your administration, The distinction, which prevails and is acknowledged in this country, may very properly be transferred to New South Wales and be enforced there. As no Member of His Majesty's Government, holding a political and confidential employment, can with reason claim to retain his office any longer than he can conscientiously and cordially support the general course of policy pursued by the

Deference and support for governor required from civil officials.

1836.
22 Aug.

Chief Minister of the Crown, so, in the Colony under Your Government, no person is entitled to continue in any of those high and confidential places, which entitle him to a participation in your counsels and make him essential as an agent in your measures, unless he can render that support with zeal and constancy. But the subordinate officers of the various Public Departments, whether in this Kingdom or in New South Wales, are not called upon for anything beyond assiduity and fidelity in the discharge of their own appropriate functions, and an abstinence from all such interference in Public Affairs of whatever kind, as might tend to defeat or embarrass the measures of the Government which they serve. A neutrality on questions of controverted and party politics is at once the duty and the privilege of their situation. If, declining to avail themselves of that privilege or failing in the performance of that duty, they place themselves in hostility to the administration under which they act, they cannot reasonably complain, if they be visited with the penalty of such imprudence.

Necessity for
neutrality on
party politics
in civil
officials.

I am happy to be relieved from the necessity of applying this general principle to the particular case of any of the remonstrants, who have signed the Letter of the 25th January. On the other hand, I think it impossible to receive such a letter without distinctly reminding those Gentlemen that such is the principle by which His Majesty's Government would be guided, if, unhappily, the sentiments which it breathes should urge them into any such opposition to your general policy and measures, as might tend to prevent or to impede the success of them.

Approval of
exclusion of
certain civil
officials.

For the rest, it seems to me too obvious to demand any laboured proof that the Assistant Colonial Secretary, the Surveyor General, His Deputy, the Colonial Surgeon and Harbour Master will be employed much more advantageously for the Public Service by the exclusive devotion of their time to the duties of their respective Offices, than by subtracting any considerable part of it for the purpose of presiding at the Quarter Sessions in superintending the conduct and discipline of the Convict Population.

Disapproval of
unauthorised
names attached
to public letter.

I cannot close this Despatch without expressing my strong sense of the impropriety of adding to a Public Letter to me, and especially to a Letter of complaint against the Governor of the Colony, the names of several Public Officers as Subscribers, although it be clear that they had not an opportunity of signing it, and altho' it seems highly probable that some of them would have refused to annex their signatures.

I have, &c.,

GLENELG.

LORD GLENELG TO SIR RICHARD BOURKE.

(Despatch No. 195, per ship John.)

1836.
23 Aug.

Sir, Downing Street, 23d August, 1836.

The Secretary at War has referred for my consideration, in the hope of my being able to afford them relief out of some Colonial Fund, the cases of the Out Pensioners, who form the subject of your Report to his Lordship of the 12th March last. Deeply commiserating as I do the destitute state to which these Men appear to be reduced, I have been unable to discover any ground on which the Revenues of New South Wales could be justly charged with the payment of any Pensions or Compensation Allowances to those Soldiers.

Problem of relief for out pensioners.

The only course which I can suggest, and which doubtless you have already adoptèd, is to avail yourself of every opportunity which may offer of employing these persons in any Public Service to which they may be competent, in preference to Candidates who, not possessing superior qualifications in other respects, are destitute of the claims which these Men have on the gratitude of the Country for past Military Services.

I am, &c.,

GLENELG.

LORD GLENELG TO SIR RICHARD BOURKE.

(Despatch No. 197, per ship John.)

Sir, Downing Street, 25 August, 1836.

25 Aug.

I have received your Dispatch No. 28 of the 28th of February last, enclosing a Memorial from Mr. Robert Turnbull. The answer to Mr. Turnbull's application, which is noticed in your dispatch, is conclusive and admits of no reply. The Land was promised to the late Dr. Halloran, subject to the condition of the arrangement being approved by the Secretary of State. When this fact was communicated to the Earl of Ripon, his Lordship distinctly disapproved what had been done and refused to sanction the Grant. The present Memorial is therefore in effect an appeal to me against the decision of my Predecessor, although no fact is proved or alleged which was not known to him when that decision was formed. I can therefore only state that I find no reason, which would justify me in interfering with Lord Ripon's determination, but must consider it as having finally set the question at rest.

Dispatch acknowledged.

Confirmation of former decision *re* land grant for R. Turnbull.

I have, &c..

GLENELG.

1836.
26 Aug.

LORD GLENELG TO SIR RICHARD BOURKE.

(Despatch No. 198, per ship John; acknowledged by
Sir Richard Bourke, 9th September, 1837.)

Sir, Downing Street, 26 August, 1836.

Despatch
acknowledged.

I have received your Dispatch No. 35 of the 10th March last reporting your proceedings respecting New Zealand, and your Correspondence with Mr. Busby, the British Resident at the Bay of Islands.

Disapproval
of action of
J. Busby *re*
spirit traffic.

My Dispatch of the 28th of October last supersedes the necessity for any further discussion of Mr. Busby's conduct; yet I cannot but record my entire concurrence in your opinion that, however upright may have been his motives, he judged unwisely and acted with great indiscretion in placing himself in opposition to your measures for preventing or discouraging the introduction of Ardent Spirits amongst the Natives of New Zealand.

Approval of
action *re*
C. de Thierry.

Every motive of humanity and of National policy combined in favor of Mr. Busby's efforts to defeat the attempt of the person, calling himself the Baron de Thierry, to establish a Sovereignty over the New Zealanders. The success of such a scheme would not only have introduced a new and dangerous power in the neighbourhood of our Australian Colonies, but could scarcely have failed to bring about, at no remote period, the depopulation of New Zealand, or at least the extinction of the Aborigines.

Legislation
proposed *re*
New Zealand.

I was induced by various considerations to refrain from attempting to execute in the late Session my purpose of making more effectual provision for the protection of the Inhabitants of New Zealand against the misconduct of British Subjects. I have not, however, abandoned that design. In the mean time, by the Enactment during the late Session of a Law for a similar purpose at the Cape of Good Hope and the adjacent Territories, the principle has been fully recognized, and a considerable advance made towards the fulfilment of the plan to which I refer.

I have, &c.,

GLENELG.

LORD GLENELG TO SIR RICHARD BOURKE.

(Despatch No. 199, per ship John.)

27 Aug.

Sir, Downing Street, 27th August, 1836.

Request to
purchase
land at
Western port.

I have the honor to acknowledge the receipt of your Despatch No. 43 of the 5th April last, enclosing an application, which has been made to you by certain Residents at Van Diemen's Land for the purchase of 50,000 acres at Western Port.

Having, in my Despatch No. 142 of the 13th April last, already put you in possession of my sentiments with regard to the settlement of that part of Australia, I must refer you to that Despatch as containing the only answer which I can make to the proposal of Mr. Murray and his Associates.

1836.
27 Aug.
Reference to former despatch.

I am, &c.,

GLENELG.

LORD GLENELG TO SIR RICHARD BOURKE.

(Despatch No. 200. per ship John.)

Sir,

Downing Street, 28th August, 1836.

28 Aug.

The friends of Major Mitchell having informed me that a necessity exists for his return to this country, I beg to acquaint you that there will be no objection to your granting him leave of absence for that purpose, if you shall consider it compatible with the interests of the Public Service.

Leave of absence for T. L. Mitchell.

I am, &c.,

GLENELG.

LORD GLENELG TO SIR RICHARD BOURKE.

(Despatch No. 201. per ship John.)

Sir,

Downing Street, 29th August, 1836.

29 Aug.

I have the honor to enclose for your information a copy of an Act,* which has been passed to continue for another year the Act of 9th George the 4th, Cap. 83.

Act to continue act for government of colony.

It was the full intention of His Majesty's Government to have proposed to Parliament, during the Session which has just closed, a new Bill for the future Government of New South Wales and Van Dieman's Land; and a Notice to this effect was given by Sir George Grey in the House of Commons. After, however, the Government had bestowed much consideration on the principle and details of the measure, which they might have felt it their duty to propose, I received your Despatch of the 26th December, 1835, No. 127, in which you transmitted the Drafts of a Bill prepared at your request by Chief Justice Forbes, and accompanied by explanatory Notes and by Observations from yourself with reference to the present circumstances of the Colony. The Session had so far advanced before this important Despatch was received, and the amount of Public business remaining to be transacted was so great, that it was impossible to bestow upon it that careful and deliberate attention which it demanded, in time to fulfil the former intention of the Government of introducing a new Bill with the prospect of its being passed into a Law during that Session. His Majesty's Government, therefore, felt themselves compelled to adopt the

Reasons for delay in passing new bill for government of colony.

* Note 143.

1836.
29 Aug.
Bill proposed
in next session.

alternative of proposing the continuance of the existing Act for another year. They trust, however, that, with the valuable assistance which you have afforded them, they shall be enabled to submit to Parliament at an early period of the next Session a Bill framed upon such principles as, on the fullest consideration of the circumstances of the Colony, appear to them best calculated to promote the important interests involved in this question.

I am, &c.,

GLENELG.

LORD GLENELG TO SIR RICHARD BOURKE.

(Despatch No. 202, per ship John; acknowledged by
Sir Richard Bourke, 12th February, 1837.)

30 Aug.
Despatch
acknowledged.

Sir,

Downing Street, 30th August, 1836.

I have received your Despatch No. 27 of the 28th February last, in which you recommended that an Allowance of £500 a year should be granted to Captain Barney, R.E., for performing the duties of Civil Engineer.

Disapproval
of salary for
G. Barney as
civil engineer.

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 returned by that Board, by which you will perceive that their Lordships have declined acceding to your proposal. I also enclose a copy of the letter to which Mr. Spearman refers, from which you will learn that the second Officer of Engineers was sent out to the Colony to assist Captain Barney, in consideration of the Civil duties which he would be called upon to perform, and to obviate the necessity of making a separate allowance to him on that account.

I beg to call your attention to that part of Mr. Spearman's last letter, in which he states that the decision of the Treasury in regard to the additional assistance, for which Captain Barney has applied, has been deferred until a Report shall have been received from you as to its necessity.

I am, &c.,

GLENELG.

[Enclosure No. 1.]

MR. F. BARING TO UNDER SECRETARY HAY.

Sir,

Treasury Chambers, 22 May, 1835.

Transmission of
correspondence.

I am commanded by the Lords Commissioners of His Majesty's Treasury to transmit to you the enclosed copy of a Letter from the Secretary to the Board of Ordnance of the 27th Ultimo, submitting certain arrangements for the Civil Engineer's Department at New South Wales, and, with reference to your Letter of the 23rd Decr. last, and likewise to the communications from this Department of 20th Novr. and 18th March last upon the subject of the Ordnance Establishments to be employed in the Australian Settlements; I am to request you will acquaint Lord Glenelg that

it appears to my Lords that the proposal of the Board of Ordnance that an additional Officer of Royal Engineers should be dispatched to New South Wales, and the selection the Master General and Board have made, will meet the object adverted to in your Letter of providing for the efficient superintendence of Works of the description to which the Dispatch of Major General Bourke refers. My Lords are also of opinion that the union of the superintendence of the Civil and Military Engineer's Department under the same head, in a Colony circumstanced like that of New South Wales, will be attended with considerable advantage, and that it may at the same time be made conducive to economy; for, as the employment of a second officer of the Royal Engineers would not be required for carrying on the ordinary Military duties of that Department, and will relieve the Commanding Engineer from any extraordinary pressure of duty to which he might have been exposed, if called upon to direct both the Civil and Military Works without that assistance, it does not appear to my Lords to be necessary, with the appointment of the second Officer, to grant the extra Salary proposed by the Board of Ordnance to Captain Barney, and they conceive that it will be sufficient that the Colony should provide for the payment to the Military Chest of a Sum about equivalent to the expence that may attend the employment of the additional officer, and for such travelling and extra expences as Captn. Barney may incur in relation to the Civil Works and Services under his charge, and the Establishments and assistance that may be found requisite for carrying on the duties and transacting the business connected with them.

1836.
30 Aug.
Arrangements for supervision of civil and military works in colony.

Disapproval of extra salary for G. Barney.

I am likewise to request you will state to Lord Glenelg that my Lords are further of opinion that the suggestion of the Master General and Board of Ordnance in regard to the preparation of the plans and Estimates for the Gaol should be adopted, and that Captain Barney should arrange, in communication with the Officers of that Department, what portions of the materials required in the construction of such a Building, it would be advisable to have supplied from this Country, and should, as far as may be practicable, prepare such specifications as will enable parties here to furnish and forward the Articles whenever provision shall have been made for defraying the expence of the Work.

Instructions re plans for gaol.

I am also to request You will further observe to Lord Glenelg that, should he concur in opinion with my Lords with respect to the preparation of Plans and Estimates for the Gaol, they would suggest an immediate communication to the Master General and Board of Ordnance, in order to prevent any avoidable detention of Captain Barney, whose early presence in the Colony is obviously most desirable with reference to the other arrangements about to be adopted there.

I am, &c.,

F. BARING.

[Sub-enclosure.]

MR. R. BYHAM TO HON. J. STEWART.

Sir, Office of Ordnance, 27th April, 1835.

I have the honor by Command of the Master General and Board of Ordnance to acknowledge the receipt of your Letters, dated the 11th Decr. and 3d January last, respecting the erection of a new Gaol near Sydney, New South Wales, and the appointment of a Civil Engineer for the service of that Settlement; and I am directed to acquaint you in answer, for the information of the

Letters acknowledged.

1836.

30 Aug.

Appointment
of G. Barney
as commanding
engineer.

Lords Commissioners of His Majesty's Treasury, that Captain Barney of the Corp of Royal Engineers has been selected by the Master General to be employed as Commanding Engineer at Sydney, and a Clerk of Works has also been nominated. If therefore it is proposed that the Engineer Department should be charged with the repair and execution of Civil Buildings of any description, the Master General and Board will instruct Captain Barney to prepare the plans and Estimates for the Gaol (subject to local revision, which will of course be necessary) so far as he can perfect them before his departure.

Arrangements
re duties of
civil engineer.

In respect to the appointment of a Civil Engineer for the same Settlement, as the Master General and Board had decided that only one Engineer Officer was to be employed at Sydney at present instead of two, as at first proposed by the Inspector General of Fortifications and as explained in my Letter of the 20th February last, the Master General and Board do not think the Commanding Engineer could have given his assistance to the Civil Duties required. If however it be deemed it expedient to place those duties under the charge of Captain Barney, the Master General and Board beg to advert to the advantage and saving that may arise if a second officer of Engineers were ordered for Sydney of the Rank of Subaltern to be under Captain Barney's orders for Military services, and in this case the Master General and Board consider Captain Barney, who was employed on a similar duty for many years at Jamaica, might undertake the duties of Civil Engineer with advantage to the public service. Should this proposition be approved by their Lordships, the Master General and Board beg to recommend that he should receive a fixed annual Salary exclusive of travelling expences for this particular service. By the Correspondence, it appears that £800 to £1,000 is contemplated as the expence; but, by giving the appointment to the Commanding Royal Engineer, the Master General and Board are of opinion a considerable may be made, and they submit whether £500 a year for the Civil appointment would not be considered by their Lordships as a fair allowance with the understanding that such assistance, as he may require for this part of his duty, will be furnished to him on an arrangement with the Governor on the spot.

Salary proposed
for G. Barney.

I have, &c.,

R. BYHAM.

[Enclosure No. 2.]

MR. A. Y. SPEARMAN TO UNDER SECRETARY STEPHEN.

Sir,

Treasury Chambers, 30th August, 1836.

Having laid before the Lords Commissioners of His Majesty's Treasury your Letter of 29th Ultio, in reply to the Letter of this Board of 7th Ultimo respecting the application of Captain Barney, Comg. Royal Engineers in New South Wales, for additional assistance, I have received their Lordships' Commands to acquaint you, for the information of Lord Glenelg, that, as it appears that his Lordship has received no Report from the Governor of the Colony as to the necessity of such assistance, my Lords have informed the Board of Ordnance that they must defer their sanction to an increase of the Ordnance Establishment there.

With reference to the arrangement relating to the duties of the Colonial Engineer submitted in the Dispatch from Sir R. Bourke of 28th February last enclosed in your Letter, I have to request

Assistance
requested by
G. Barney.

that you will call the attention of Lord Glenelg to the communication from this Department to Mr. Hay of 22nd May, 1835, upon that subject, and will observe to his Lordship that no circumstances have yet been brought under the cognizance of the Board, which appear to warrant a departure from the arrangement then submitted to and approved by Lord Glenelg, and of which they presume Sir R. Bourke has been apprized.

1836.
30 Aug.

Reference
to former
correspondence.

I am, &c.,
A. Y. SPEARMAN.

LORD GLENELG TO SIR RICHARD BOURKE.
(Despatch No. 203, per ship John.)

Sir, Downing Street, 31st August, 1836. 31 Aug.

I have received your Despatch of the 1st April last, reporting on the claim advanced by Mr. James Scott to a Grant of Land under the late Regulations; and the information, which you have supplied, is in my opinion conclusive. If Mr. Scott should apply to you on the subject, I have to request that you will inform him that I see no ground for a departure in his favor from the existing Land Regulations.

Despatch
acknowledged.

Refusal of
land grant for
J. Scott.

I am, &c.,
GLENELG.

LORD GLENELG TO SIR RICHARD BOURKE.
(A circular despatch per ship John.)

Sir, Downing Street, 31st August, 1836.

The particular attention of His Majesty's Government has been called to measures adopted by various Colonial Legislatures for revising and altering the Rates at which different Coins should pass current and be a legal tender with reference to local Monies of Account.

Colonial
legislation *re*
values of coins.

These regulations have obviously considerable influence upon the transactions of those Departments, which are concerned in the collection of Duties imposed by Acts of Parliament, more especially upon transactions of the Military Chest; and, as material inconvenience has already been experienced in these respects, it is desirable to adopt such measures as may prevent the recurrence of such inconvenience, and thereby avoid the necessity of revoking such Enactments as may be deemed objectionable after they shall have been promulgated and carried into effect.

With this view, I have to desire that you will not permit any Act or Ordinance or Proclamation or Regulation to come into operation in the Colony under your Government relating to the local currency and circulating medium, or to the rates at which

Necessity for
approval of
details *re* rates
of currency.

1836.
31 Aug.
Necessity for
approval of
details *re* rates
of currency.

coins should pass current, or be a legal tender, or to the circulation of Promissory Notes or other Paper either by the Local Government or by any Corporate Bodies or Individuals, without having first received His Majesty's sanction, conveyed to you by the Secretary of State.

I have, &c.,
GLENELG.

LORD GLENELG TO SIR RICHARD BOURKE.

(Despatch No. 204, per ship John; acknowledged by Sir Richard Bourke, 15th May, 1837.)

1 Sept.
Letter
acknowledged
from J. Lamb.

Sir, Downing Street, 1st September, 1836
Mr. John Lamb, formerly a Magistrate of New South Wales, has addressed to me a Letter, bearing date the 19th April last, in which he complains of an Article reflecting on his character, which appeared in the "Australian" Newspaper of the 26th Jany. last, and which Mr. Lamb attributes to two Officers of your Government.

Report required
re allegations.

I have to request that you will apply to Mr. Lamb for Copies of that Letter and its enclosures, and that you will furnish me with any such Report on the allegations contained in them, as you may think necessary.

I have, &c.,
GLENELG.

SIR RICHARD BOURKE TO LORD GLENELG.

(Despatch No. 93, per ship William Harris; acknowledged by Lord Glenelg, 7th April, 1837.)

Despatch
acknowledged.

My Lord, Government House, 1 Sept., 1836.
I have the honor to acknowledge the receipt of Your Lordship's Despatch of the 7th March last, No. 124, requesting to know upon what grounds the Colonial Secretary was led, in a letter addressed to Mr. Wm. McCrae, to suggest the possibility of a Grant of Land, the order for which had been cancelled by this Government, being nevertheless authorized by the Secretary of State.

Details *re*
application by
W. McCrae for
land grant.

Upon referring to the former correspondence respecting this case, I find that the application made to me by Mr. McCrae's Agent for a Grant of the Land in question was accompanied by a letter from Mr. Under Secretary Hay, dated 21 December, 1833, addressed to Mr. McCrae, in which he seemed to regard that gentleman's claim in a favorable light, arising as I believe from his conceiving that Mr. McCrae's agent had been authorized by Sir Ralph Darling to occupy the Land, though I found on enquiry that the contrary was the fact. The agent was, therefore, informed that according to Regulation I could not make any

grant of the Land though the Secretary of State might perhaps under the circumstances of the case direct it.

1836.
1 Sept.

The facts of the case are these. On the 2nd June, 1831, Mr. McRae was authorized to select 1,280 acres upon entering into the usual engagement for residence in the Colony for three years. A selection was notified by his Agent on the 23 Sept., 1831; but, on its appearing that Mr. McRae had left the Colony, the order was declared forfeited, and the Agent informed accordingly on the 31 December, 1831.

Details *re*
application by
W. McCrae for
land grant.

Under these circumstances, I did not feel authorized to issue a grant of the Land to Mr. McRae, Nor can I recommend to Your Lordship to do so, as the precedent would be very inconvenient, many applications, nearly if not altogether similar having been rejected.

I have, &c.,

RICHD. BOURKE.

LORD GLENELG TO SIR RICHARD BOURKE.

(Despatch No. 205, per ship John.)

Sir, Downing Street, 2nd September, 1836.

2 Sept.

You will have the goodness to inform Mr. Potter Macqueen that I have received his letter of the 28th January last, in which he applies for a Grant of Land in the Interior of the Colony, equal in value to a Waterside Allotment in the Neighbourhood of Sydney, which that Gentleman claims under an alleged promise of Earl Bathurst; but that the same reasons, which prevented me from complying with his application for an allotment near Sydney, equally preclude me from sanctioning Mr. Macqueen's receiving Land in the Interior on any other terms than those prescribed by the existing Regulations.

Refusal of
land grant for
T. P. Macqueen.

I am, &c.,

GLENELG.

SIR RICHARD BOURKE TO LORD GLENELG.

(Despatch No. 94, per ship William Harris; acknowledged by lord Glenelg, 14th April, 1837.)

My Lord, Government House, 2 Sept., 1836.

I have the honor to forward, pursuant to Regulation, a Memorial addressed to Your Lordship by certain Emigrants who have arrived here since the year 1830, complaining that the advantages they possess in this Colony do not correspond with the representations published by authority of H.M.'s Government and in reliance upon which they were induced to leave the Mother Country. To compensate for their disappointment they solicit free grants of Land in specified proportions, according to an estimate of the cost of passage incurred by the several applicants.

Transmission of
memorial from
immigrants.

1836.
2 Sept.

Complaint *re*
system for
disposal of land.

These Memorialists further complain of the present Regulations for disposing of Crown Land and pray that a new system may be introduced, and in particular that the principle of sale by competition may be abandoned.

It will be impossible to consider at length the numerous and discursive topics of this Memorial without wearying your Lordship with an useless repetition of facts and arguments already fully known and maturely considered. A few concise observations may answer for the Report, with which I may be expected to accompany its transmission.

Reply to
statements
re wages.

With regard to the Exaggeration attributed to the List of Wages published by the Commissioners for Emigration in the year 1831, this must to some extent be admitted; or, if the publication were correct at the time, it is certain that wages soon after fell to a lower standard. Upon this point, I beg leave to refer Your Lordship to my Despatch of the 6th December, 1833, replying to Enquiries made by Lord Stanley upon this subject. Yet, if it be allowed on the one hand that labor has not commanded the exorbitant wages specified in the notice referred to, it is equally true, on the other, that the greater number of honest and industrious emigrants have had ample opportunity for improving their condition by the change of country. Clear proof of this is afforded by the present rates of wages as stated by the Memorialists themselves, who admit that "all kinds of field laborers, if steady, may mend their condition of life," while the wages, which they set forth as now earned by Mechanics of various descriptions, would be thought extravagantly high in England. Many Journeymen Artisans, who arrived a few years ago, have in fact assumed the station of Master Tradesmen and are erecting some of the public works under contracts with the Government.

The subscribers to the Memorial represent themselves as Emigrants, who have arrived since the year 1830. Of these, a part only can have been influenced by the circular of 1831, as that Document must have become obsolete before many of them resolved to proceed to the Colony. Independently therefore of the difficulty of admitting claims resting upon alleged error in a document compiled with a sole view to the public advantage, and from the best accessible evidence, it becomes impossible to distinguish what portion of the Memorialists sustained injury from such error. The manner, in which the compensation sought for is Estimated, increases the difficulty. It is rated according to the supposed cost of passage to the Colony, a large part of which

Claim for
compensation.

1836.
2 Sept.

has been in many instances defrayed by the Govt., Several of the Emigrants having received advances, which they have not been called upon to repay.

With regard to the Regulations for sale of Crown Land by competition, the policy of which is impugned by the Memorial, it is not necessary here to recapitulate the reasons which led Lord Ripon to originate the present system, and which have since induced His Lordship's successors to maintain it inviolate. It is sufficient to observe that those reasons gather additional force, as the lapse of time consolidates the system and, with reference to its past and the expectation of its continued operation, gives to property a fixed standard of value.

Protest *re*
sale of land
by auction.

With regard to the delay complained of in putting up Land for purchase, I can only regret that circumstances render impossible that degree of promptitude, which would meet the wishes of every applicant. Separated as the lands selected are from each other at great distances, it would be necessary to augment the Survey Department to many times its present strength in order to secure the immediate measurement of every portion of land which may be applied for. The Regulation admitting of the Sale of Land within one month after application to newly arrived Emigrants was not expected to ensure to all the measurement of their Land within that period. It was solely intended to give the advantage of earlier purchase in those cases, in which the measurement happened to be practicable within that time, instead of the usual delay of three months, which is required in general and is in the average of cases found no more than sufficient to secure measurement before the day of Sale.

Delay in
sales of land.

The remarks, made by the Memorialists upon the reservation of Mines, sites of Roads and materials for public works, proceed upon a mistaken view of its policy and practical operation. Throughout the greater part of the Colony, the property of the Settlers is far more improved by the introduction of Roads and public works than it can possibly be injured by any enforcement of the condition referred to. In proportion as Land assumes a higher value, the local Legislature will doubtless from time to time adopt, with the concurrence of the Crown, proper modifications of that condition by allowing such compensation for advantages surrendered to the public as the justice of the case may call for. This has been already done to a considerable extent in a recent Road Act,* and the Law may be expected to follow the interests of the community in this respect as circumstances may require. It cannot be supposed that the Government, acting for the public, can be interested in a wanton invasion of the Property of the Individuals who compose that Public.

Reservations
of mines, and
sites for roads
and public
works.

Modification
of conditions.

* Note 144.

1836.
2 Sept.
Monopoly of
coal-mining by
A.A. company.

The restrictions, referred to by the Memorialists as arising from the monopoly of the Australian Agricultural Company in the only Coal Mines hitherto opened, will not endure longer than the Agreement entered into with the Company. I am not here called upon to defend the Policy of that Agreement. But I am not aware that at present the Colony is suffering any detriment from the want of other Coal Mines.

I have, &c.,

RICHD. BOURKE.

[Enclosure.]

MEMORIAL

Memorial from
immigrants.

To the Right Honorable Viscount Glenelg, His Majesty's Principal Secretary of State for the Colonies, Sydney, New South Wales, December, 1835.

May it Please Your Lordship,

Reasons for
immigration
to colony.

We, the undersigned, from various causes not necessary to enumerate, but more particularly having suffered much under the depressed State of Trade that followed the introduction of Sir Robert Peel's Monetary Bill, were induced by the Statements, published under the Sanction of Government, to leave our Native Country and come to this Colony, that we might improve our State; preferring rather to place ourselves under the protection of British laws in this most distant Colony than accept the more liberal offers held out to immigrants by Foreign States. We undertook the long and perilous voyage to this very distant land, and encountered difficulties, and endured privations, in a firm reliance on these sanctioned Statements, and a solemn conviction that our emigration was sure to better our circumstances and benefit our posterity.

Disappointment
re conditions
in colony.

We now address your Lordship, after having tasted of the reality, and found ourselves the subjects of delusion, under circumstances which render it painful as Subjects, but imperative as an Act of justice towards ourselves, since we cannot but attribute the great cause of our disappointment, misery, and perhaps ultimate ruin to the measures adopted and the representations made by the Government itself. Having thus briefly noticed the feelings which actuate us in thus addressing Your Lordship, we beg respectfully to call your earnest attention to the following statements, and the prayer for redress which accompanies them. In thus presenting to your Lordship's notice the grievances which oppress us, we beg most distinctly to disclaim all factious motives or disloyal feelings. The immense distance, which separates this from the Mother Country, has rendered our Rulers more liable to be misled by the representations of interested and designing individuals than perhaps any other part of His Majesty's dominions; added to which, the penal character of the Colony has induced the Government to place the supreme authority in the hands of naval or military men, who, however desirous of acting correctly, yet from their habits of life have been less qualified to appreciate the wants or understand the feelings which influence the free immigrants than a Civilian, especially those of their fellow subjects who belong to the Commercial and Mechanical Classes of Society. To these and other causes, it is we attribute the origin of those evils of which we complain, and

from which we are now suffering, and not to any want of paternal regard for this more than for any other portion of the British Empire.

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2 Sept.

We particularly request your Lordship's attention to the Circular issued by the Government, of which the following is a Copy, and to the accompanying Statement, for the accuracy of which we pledge ourselves: "Colonial Office, 18th July, 1831. Information respecting the Australian Colonies. The Commissioners for Emigration have collected the following information for the use of persons desirous of emigrating to New South Wales and Van dieman's Land. *Prices of passage.* The Commissioners for Emigration have reason to expect, from the result of the enquiries which they have made on this subject, that passages can be provided for people of the Working Classes, including their maintenance during the voyage, at a charge not exceeding £16 for Adults and £8 for Children. More exact particulars and the precise charge, for which passages can be provided, will be stated at the time of entering into the agreements with such persons as may apply to the Commissioners for that purpose. *Probability of employment and Rates of Wages.* The Commissioners have examined a considerable number of Letters upon these Subjects from respectable inhabitants of New South Wales and Van dieman's Land; and they find that all concur in representing the existence of a great demand for labour. These representations are further confirmed by Official Reports received from these Colonies by the Secretary of State. The following general statements, collected from a variety of sources, will afford a view of the average rates of Wages in the Australian Colonies; Twenty five or Thirty pounds a year, besides board and lodging, seem to be the Wages which are usually paid to common labourers; Artizans of very ordinary qualifications are reported to find no difficulty in obtaining £50 a year, besides board and lodging. The following Advertisement, which appeared in the Sydney Gazette of the 12th August, 1830, contains a list of several descriptions of workmen wanted at Sydney, as well as an Account of the high Wages which some of them might obtain. *Advertisement from the Sydney Gazette.* Wanted in Sydney, New South Wales, the following Tradesmen and Mechanics. Bread and Biscuit Bakers, Butchers, * Boatbuilders, * Brickmakers, * Bricklayers, Bellows-makers, * Blacksmiths, Bellhangers, Brassfounders, Brewers, Boatmen, * Collarmakers, Confectioners, Chairmakers, * Curriers, * Carpenters, * Caulkers, * Coopers, Cartmakers, Coachmakers, Compositors, Candlemakers, Cabinet-makers, Cheesemakers, Coach-springmakers, Cooks, Colliers, * Copper-smiths, Cutlers, Dyers, Dairywomen, Distillers, * Engineers, Farriers, Flaxdressers, Fencers, Fellmongers, Gardeners, Glaziers, Glassblowers, Glue-makers, Gilders, Gunsmiths, Hairdressers, Hatmakers, Hat-finishers, * Harnessmakers, Horse breakers, Hoopbenders, * Joiners, Japanners, Ironmongers, Ironfounders, Leather dressers, Lime burners, Locksmiths, Milers, Mealmen, * Millwrights, Milliners, Malsters, Mustardmakers, Milkmen, Nurserymen, Nailers, Painters, Parchmentmakers, Pump makers, Ploughmakers, Potters, Paper-makers, * Plasterers, Ploughmen, Provision Curers, Plumbers, Printers and Pressmen, Quarrymen, Quill preparers, Ropemakers, Reapers, Saddlers, Shoemakers, * Sawyers, Shipwrights, * Stone-masons, * Stone-cutters, * Stone setters, Stone-quarrymen, Sail makers, * Slaters and Shinglers, Shepherds, Sheepshearers, Soap-makers, Sign painters, Sailors, Sail Cloth makers, Sieve makers,

Information published for intending emigrants from England.

Cost of passage.

Probability of employment and rates of wages.

1836.
2 Sept.

Probability of
employment
and rates of
wages.

Starchmakers, Straw platters, Straw hat makers, Turners, * Tan-
ners, Tailors, Tinplateworkers, Tobacco pipe makers, Tobacco
Growers, Tallow melters, Vine dressers, Upholsterers, Wheelwrights,
Waggonmakers, Woolsorters, Whalers, Weavers of Blankets and
Coarse Woollen, Wire drawers, Wood splitters. Those marked
thus (*) are particularly wanted, and can earn 10s. a day and up-
wards, *all the year round*. And Engineers and Millwrights can
earn 20s. a day. All Articles of provision are very cheap, beef
and mutton 2d. per lb. by the joint, and 1d. per lb. by the Quarter
Carcass. Tea (green), 1s. 6d.; Sugar, 3d.; Indian Corn, 1s. 6d. per
bushell, etc., etc. The Agent for New South Wales and Van die-
man's Land, in a letter addressed to the Chairman of the Emigration
Committee in the Year 1827, since which period the price of labour
is understood to have risen, stated the Rates of Wages as follows:—
Common Laborers, 3s. per day; Common Mechanics, 7s. per day;
2nd Rate Mechanics, 8s. to 12s.; 3rd Rate Mechanics, 12s. to 15s.;
And to Mechanics of peculiar qualifications or Agricultural
Labourers, capable of managing a Farm in the capacity of Bailiff,
£1 per day.”

Present rate
of wages and
prospect of
employment.

PRESENT RATE of Wages given to the several descriptions of
Labourers and Mechanics as enumerated in the Government Cir-
cular, dated 18th July, 1831, with remarks on the demand for their
Services in the Colony: Brassfounders supplied by importation
principally; Boatmen, none wanted; Collarmakers, too many
already here, Wages 4s. a day. Confectioners, too many already
here, Wages 10s. to 20s. and Rations. Chairmakers in demand, 5s.
to 7s. per day. Curriers not in demand, 3s. 4d. per day. Carpenters,
good ones a partial demand, 4s. to 7s. per day. Caulkers, 7s. to 8s.
per day. Coopers, 5s. to 7s. per day. Cartmakers, see Wheel-
wrights. Coachmakers, no demand, 4s. to 6s. per day. Compositors,
a few might find employment. Cabinet makers, good ones, find
ready employment at 5s. to 7s. per day. Coach spring makers, only
two in the Colony, but find no employment. Cooks, nearly every
Establishment employ them, 4s. to 6s. per Week and Rations.
Coppersmiths, no demand, 4s. to 6s. per day. Cutlers, too many
here, supplied by importation. Dairy Women, any number will find
employment, Wages £10 to £12 per annum and Rations. Distillers,
no demand, supplied by importation. Engineers, £2 per Week and
Rations. Farriers, none wanting. Flaxdressers, flax not grown
here. Fencers, all kinds of field laborers, if steady, may mend
their condition of life. Fellmongers. Gardeners are always in
demand, Wages from £10 to £40 and Rations per Annum. Glaziers,
4s. to 6s. per day. Glass blowers, none here, cheaper to import.
Glue makers, none here. Gilders, Water Gilders, no employment;
carvers and Gilders, too many here. Gunsmiths, supplied by im-
portation. Hairdressers, none wanting. Hatmakers, principally
supplied by importation. Hatfinishers, none wanting. * Harness-
makers supplied by importation, wages from 4s. to 5s. per day.
Horse breakers, none wanting. Hoop benders, not wanted here, no
wood that will make them or very little. * Joiners, good ones may
find employment from 5s. to 6s. 8d. per day. Japanners, plenty here,
but none of them work at their trade. Ironmongers, plenty here.
Ironfounders, a good opening for a person of Skill. Capital and
enterprize. Leather dressers, no demand, 3s. 6d. to 4s. per day.
Limeburners, see labourers. Locksmiths, a few good general work-
men might find employ. Millers, 5s. to 6s. per day. Mealmen, 5s. to

6s. per day. * Millwrights, but few wanting, 6s. to 7s. per day. Milliners must work very cheap here, quite as low as at home. Mustard Makers, no Seed grown here. Milkmen, all kinds of husbandrymen are in demand. Nailers, 5s. to 6s. per day, and steady good workmen may earn more. Nurserymen, no demand. Parchment Makers, not wanted. Pumpmakers, Pumps very little used. Plough Makers, see Wheelwrights. Potters, plenty of Clay and a good opening for this business, as they bring a good price. Paper makers, none here, supplied by importation and would not pay a maker. Plasterers, 5s. to 6s. per day. Ploughmen, £10 to £12 per Annum and Rations. Provision Curers, £10 to £12 per annum and Rations. Plumbers, 5s. to 7s. per day, little doing in this. Printers and Pressmen, a few wanted. Quill preparers, none here. Rope Makers, very few wanting, if any. Reapers, see labourers. Saddlers, 4s. to 5s. per day, supplied by importation. Shoemakers, from 5s. to 7s., or some to 10s. per day. * Sawyers, 6s. per hundred. Shipwrights, 6s. to 7s. per day. Stonemasons, 5s. to 7s. per day, good in demand. Stonecutters, 5s. to 7s. per day. * Shinglers and Slaters, only one house slated in Sydney. Shinglers' Wages, 5s. to 6s. per day. Shepherds, always in demand, £10 to £12 per annum and Rations. Sheep Shearers, always in demand, £10 to £12 per Annum and Rations. Soapmakers, none wanting, 4s. to 5s. per day. Signpainters, more here than find employ in that business. Sailers, £3 per Month, demand moderate. Sail Cloth Makers, cheaper to import. Sievemakers, cheaper to import. Starchmakers, only one here. Strawplatters, cheaper to import. Straw hat makers, cheaper to import. Turners, very few would find employment, 5s. per day. * Turners, 3s. to 4s. per day. Tailors in demand, 25s. to 40s. per Week. Tin plate workers, 3s. 6d. to 4s. per day. Tobacco pipe maker, too many here, wholesale price 2s. 6d. per gross. Tobacco growers, every farmer may grow it from 6d. to 1s. 6d. per lb. Tallow melters, no demand. Vine dressers, see Gardeners, but very few grown. Upholsterers, 5s. to 7s. per day. For a person of taste and Capital there is a good opening. Wheelwrights, 5s. to 6s. per day in Sydney, up the Country £15 to £20 per Annum and Rations. Waggon makers, see Wheelwrights. Wool-sorters have not had encouragement here. Whalers. Weavers, 2s. 6d. per day or 8s. per week and Rations, a little employment. Wire drawers, not carried on here, all imported. Wood splitters, see labourers. Some of those thus (*) marked are not at all wanted, and the price paid to those that are in demand do not average more than 6s. per day. House Rent is very high, being at least three times what it is in England. Most Articles of provision are dear as will be seen by the following Extract:—Retail prices at the Market Stalls, *Sydney Monitor*, December 19, 1835. Bread, p. 2 lb. loaf, 5d. Beef, p. lb. p. joint, 5d. Mutton, p. lb. p. joint, 4d. Pork, p. lb. p. joint, 8d. Veal, p. lb. p. joint, 8d. Salt pork, p. lb., 8d. to 8½d. Bacon, p. lb., 10d. to 1s. Ham, p. lb., 1s. 1d. English Salt, p. cwt., 4s. to 4s. 6d. Colonial salt, p. cwt., 4s. Tea, open green, p. lb., 1s. Coffee, p. lb., 1s. 4d. Sugar, p. lb., 2¾d. to 3d. Tobacco, foreign, p. lb., 3s. 6d. Tobacco, Colonial, p. lb., 1s. 10d. Colonial Soap, p. lb., 8d. Colonial Candles, p. lb., 8d. Sperin Candles, p. lb., 2s. Beef and Mutton has been within the last three months as high as 7d. and 8d. per lb., Flour 40s. per hundred, and the 2 lb. loaf 9d., Salt Butter 2s. 6d. per lb., Indian Corn 10s. per bushel.

1836.
2 Sept.
Present rate
of wages and
prospect of
employment.

Cost of living.

1836.
2 Sept.

The Comparison, between what we were led to expect and that which we have realized, is so Obvious that we will not insult your judgment or weary your patience by any comments of our own. That such a statement as the one issued by the Government ought never to have been disseminated, we feel assured you will acknowledge. And that the evils which have resulted from it, and which we so deeply feel, your Lordship will sincerely labour to remove or obviate as far as possible.

Request for
land grants in
compensation
for dis-
appointment.

With these feelings, we respectfully request that those, who have reached the Colony since 1830, may be allowed Grants of unappropriated Crown lands in the following proportions, which, calculating the land at the Minimum price paid to Government, will be about equal to the expense of passage incurred by the several Classes of passengers to which we respectively belong, and in some measure compensate us for the disappointment we have endured:— To every Adult Cabin passenger, 240 acres; if under 21 and above 15 Years of Age, 120 Acres, and to all under 10 Years, 60 Acres. To steerage passengers: Adults, 120 Acres; under 21 and above 10 years of Age, 60 Acres; and all under 10 Years, 30 acres of land. Such a bestowment as the foregoing would be accepted by us with gratitude, and, we venture to hope, would be the means of distributing over the immense tracts of unappropriated land in this Colony a class of honest, industrious and virtuous peasantry, interspersed with numbers of respectable persons from the middle class of Society, to ameliorate and improve the moral desert by which we are surrounded.

Disappointment
caused by
existing land
regulations.

Many of us were drawn hither by the facilities, which we were led to believe were afforded to all who wished to obtain land, and the encouragement held out to become permanent residents within the limits of the Territory. We beg most earnestly to call your Lordship's Attention to the peculiar circumstances of difficulty, disappointment, and loss into which we have found ourselves plunged by the existing land regulations; and that we may not needlessly trespass upon your Lordship's patience, we will proceed to a brief detail of the facts, as they have occurred in our own experience, referring for their veracity to the Regulations themselves. We have found ourselves victimised on every hand through the adoption of a System, which we can only imagine to have originated in the Sophistical reasonings of interested men, laid before a Government too far removed from the Scene of Action to have it in its power to appreciate them. Prior to the introduction of the Sale of Crown Lands by Auction, the immense tracts of land held by individuals in this Colony were of no marketable value except when brought into Cultivation, or improved by the expenditure of Capital, the degree of the one or the amount of the other giving its value in the market. The proportion of land thus rendered available for the realization of Capital was exceedingly small in proportion to the whole held by the Settler, varying perhaps from 1/10th to 1/30th part, the remainder being occupied as a Run for Cattle. The moment, however the Government was induced to fix a minimum value of 5s. upon the unappropriated land belonging to the Crown, these Sheep Runs became of equal value, without the expenditure of a single shilling, and the new Regulation operated as a bounty to all holders of land in the proportion of £250 for every 1,000 Acres. That such a System should find supporters in the elder Residents of the Colony is not surprising, since it was the

Allegations
re effects of
sale of lands
by auction.

means of elevating all, who then held land, from comparative poverty to the possession of real wealth. It did more than this; it gave those who possessed Capital a perfect controul over the land which surrounded their Grants, placed them in the situation of monopolists, and opened the door to a species of land jobbing hitherto unknown. Little did we expect when we first put foot on these Shores to find ourselves borne down by the relentless Arm of monopoly, half ruined by the delays of Government, or beggared by the speculations of jobbers, all of which evils have in a greater or less degree been felt by us all. In order the more clearly to illustrate the workings of the present System, we will suppose the case of an immigrant of the middle class, with a family of six Children possessed of £1,000 Capital coming out as a Settler, and trace his progress through all its various stages to the moment when he expects to enter upon the possession of his land. Used to the liberty and convenience of a genteel life on Shore, and unacquainted with the restraint incident upon a Sea Voyage, he revolts at the idea of incarcerating a delicate Wife with perhaps 2 daughters in the Steerage of a Vessel, which, had he been alone with his boys, he might from prudential motives have endured; he seeks the accommodation of the Cabin for himself, his wife and Children, and lands having incurred an expense of at least £300. He is now obliged to get a residence for his family in Sydney for several Months, while he is occupied in obtaining information or traversing hitherto unoccupied tracts of land. In this way, six Months pass over, during which he has expended at least £150 in Rent and Maintenance, when he applies for a Section of 640 acres of land (the smallest portion which can be put up for sale). It now becomes absolutely necessary under the Government Regulation to wait one Month before the land he selected can be brought to the hammer; the day at length arrives; he attends to purchase, when he is informed by the Collector of internal Revenue it cannot be sold because the Surveyor's Report of its measurement has not been received. Disappointed, mortified, and dejected, he returns to his anxious family. Time passes on, month succeeds month, and at the end of twelve he finds his expenses have reduced the small Capital with which he landed at least £300, leaving him but £400, out of which, should he obtain his land at the next day's Sale, he must pay £160 as its value to the Crown; he is therefore obliged to hold that Sum at his disposal to meet the event. We will suppose the day of Sale to have been announced for a second time, and he again attends, when, after waiting with almost breathless anxiety for the announcement of his lot by the Auctioneer, he finds he is opposed by a Wealthy Settler who has land adjoining. Remonstrance is useless; the Man of Money informs him he cannot permit it to pass into other hands at a less price than 20s. per Acre, because its possession is essential to him to enable him to command the neighbouring Run upon which his Cattle are depasturing. Finding opposition useless, he relinquishes the contest and returns the victim of a System, which he anticipated would have paved the way to fortune, when he left his native land buoyant with hope. Despairing of obtaining land until better acquainted with the local circumstances of the various districts into which the Colony is divided, he enters upon business with the Wreck of his property, and merges into the Rank of a small Merchant, Shop-keeper or tradesman. That such is a true picture of the case, we

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Allegations
re effects of
sale of lands
by auction.

Allegations *re*
experiences of
immigrants
desiring land.

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Alleged
monopoly of
land by wealthy
settlers.

Delays in sale
of land by
auction.

Opposition of
land jobbers
at sales.

Tenure of lands
purchased at
auction.

refer your Lordship to the experience of numerous Sufferers, amongst whom we regret it falls to our lot to rank ourselves.

We have reason to believe that very considerable tracts of land are held by Wealthy Settlers with a Security amounting almost to a freehold, from its being known that, should any newly arrived immigrant have the temerity to select it, he would be outbid in the manner just described; so far indeed have some presumed upon this influence as to cultivate largely unappropriated Crown land, calculating with no little degree of certainty that, ere the time arrives when the land, they have thus trespassed upon, is offered for Sale, they shall have realised far more than its value, and can therefore well afford to outbid any less wealthy Competitor. In the case we have presented to the notice of your Lordship, we have presumed the immigrant to have availed himself of a recent Colonial Regulation, which reduced the period formerly required for advertisement in the Government Gazette prior to the Sale by Auction from three to one Month, with a view to favour newly arrived immigrants, an indulgence which we verily believe has not yet been enjoyed by more than six individuals, and from which, having been adopted subsequent to our arrival, we were necessarily excluded, being obliged to wait three months, and, after that period owing to the non-measurement by the District Surveyor, a further period of from six to twelve months, leaving the result of an Application undecided. We here assure Your Lordship we speak within the limits of the period which has intervened between the first announcement for Sale in the Gazette and the period of the second announcement, when the Sale has actually taken place, as will be borne out in a great number of Cases upon a reference to that authority. Should no delay have occurred on the part of the Government, or opposition be experienced from a Wealthy Settler holding land adjoining, the immigrant is almost certain to be outbid by a Set of jobbers, who, being well acquainted with the local advantage of every part of the Colony, will, if the lot he has chosen is selected with judgment and be likely to improve in value from its situation, outbid him and retain possession, until they can obtain such an advance as will amply repay them, at the cost of the immigrant who, foreseeing himself again exposed to a like uncertainty and a renewal of his expenses, finds his interest consulted by yielding to the man, who, from a better knowledge of his situation than he himself possesses, has speculated upon his necessities. We now solicit Your Lordship's attention to another view of our case and suppose that the Applicant met with neither delays or opposition. Upon what tenure does he hold it of His Majesty? Can he exercise a free controul over the land he has purchased, and for which he has exchanged the Soil of Britain, upon which no man or set of Men dare, in their own names or in that of His Majesty, to intrude or take possession without offering compensation for damage or paying its full value as assessed by a Jury? No, Your Lordship will find, upon reference to the present regulations, that those who hold land under them are but in reality tenants at Will: they are not freeholders. His Majesty can repossess any part or even the whole at any moment under the plea of its being required for public service without any equivalent or compensation for Capital expended in improvements or even the original purchase Money. In proof of this Statement, We beg to refer you to the following Clauses of the regulations now in force:—*Government Notice*, Colonial Secretary's Office, Sydney, July 1, 1831.—Clause 8.

"The Crown reserves to itself all lands, etc., and the right of taking and removing such Stone, indigenous timber, and other materials, the produce of the land, as may be required at any time for the construction and repair of roads and bridges, for naval purposes and for other public works."

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2 Sept.

Reservations
on lands sold.

With what means of oppression does this Arm any Governor, or under him the instrument of inflicting through the representation of those under his authority? What portion of a Man's purchase is there he can claim as his own? That insignificant word "other" includes all; there is no portion of the soil or its productions that does not fall within its meaning. It appears to us that all or any part of the land we have paid for may be taken from us at any time without our consent, or without recompense, although perhaps we may have expended hundreds upon its improvement, and the best part of our lives in its cultivation.

Should it please His Majesty at a future day to grant this Colony a Legislature of her own, in accordance with the spirit of that constitution which has rendered Britain the envy of the World, those who hold land under the terms of the present regulations will not feel at liberty to act as free Agents, but will feel a restraint imposed upon them through fear of displeasing the Colonial Government, and drawing upon them the losses and annoyances to which we have alluded, which would be entirely subversive of that freedom of choice in the election of Representatives or that freedom in discussing the measures of Government, to which every British Subject claims a right for the Representatives of his Choice in the Council of his Country.

Possible future
effect of
reservations.

Separated as we are from Civilized Europe by so many thousand miles of Ocean, it is necessary we should be able to supply ourselves with some Articles of our own manufacture, for the want of which, in the event of a War between England and her continental neighbours, we might be thrown into a state of great embarrassment. Our land abounds in coal and iron, the two great primary objects of importance under circumstances such as we have contemplated; but, of the first of these, without the aid of which the second is useless, the present regulations have deprived us and doomed us to submit to a monopoly in favor of the Australian Agricultural Company and the possessors of land under the System of Grants.

Necessity
for local
manufactures.

We believe the following Clauses, so far as Coal is concerned, were introduced to favor the Company just named, and give it a monopoly of the market, which at this moment is operating to our great disadvantage by increasing the expense of Steam navigation, the great importance of which is just beginning to be felt in this Colony. We beg your attention to the Government notice, dated Colonial Secretary's Office, Sydney, 1st July, 1831, Land Clause, etc., which states, "The Crown reserves to itself all lands, 'etc.,' all mines of gold, silver and coals." And again, to a Government Order, dated Colonial Secretary's Office, Sydney, August 1, 1831, Land Regulations, Clause 13, which states that "The Crown will further reserve to itself all mines of coals and of precious metals."

Monopoly of
coal-mining.

Your Lordship will, we are confident, admit that it is unjust to compel any part of this Colony to send to another for Coal, when it may be had upon the spot where it is required for use; yet such is the case and must remain so until the Government thinks proper to open Mines in different parts of the Colony. Our Ironfoundries and Colonial Manufactories must of necessity be materially retarded, while the whole Colony is left at the mercy of a single

Reservation
of mines.

Effect of
monopoly
of coal.

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Importance
of steam
navigation.

Company whose mines are at a great distance, and whose Coal cannot be obtained without considerable expense of freight; although at the present moment, owing to the demand being confined to Sydney, we do not materially feel this evil, it is nevertheless one of immediate importance when viewed prospectively, and one which must soon be most seriously felt owing to the increase of machinery, and in proportion to its introduction and the rise of manufactories in other parts of the Colony. The great majority of our Rivers have bars at their entrances, which, while they may be passed by Steam Boats with perfect Safety, cannot be by Sailing Vessels. The vast importance therefore of Steam navigation must be self evident as opening a communication between the Capital and the fertile districts, which form the banks of our numerous Streams.

Applications
for land from
old settlers.

Having thus placed before your Lordship the more prominent evils of a System, which has operated so unfavorably in our experience, we respectfully beg your consideration of the fact, that not more than six emigrants have become purchasers of Crown land, upon their arrival in the Colony since the present Regulations came into operation, a convincing proof, were any wanting, of the tendency of such restrictive and oppressive measures to retard, if not to put a stop to immigration. Upon a reference to the Government Gazette published in this Colony, we have no doubt your Lordship will be struck with the great number of Applications for land; upon enquiring however, your Lordship will find they are made by Old Settlers and large landed proprietors. For example, the Gazette No. 198, dated December 2nd, 1835, contains 19 Applications from three persons for 15,887 Acres of land, and thirty Applications from 22 persons for 26,660 acres, making a total of 49 Applications from 25 individuals for 42,547 Acres of land. The Gazette, from which this Calculation has been made, has not been selected for the purpose, but taken up promiscuously; and we have no doubt almost any number will produce a like result, the Applicants being old Settlers, and many of them possessed of very large tracts of land, while scarcely an immigrant's name of recent arrival will be found. We will not presume further upon Your Lordship's patience by the enumeration of further facts illustrative of the nature, cause and effect of the present regulations, but proceed to notice such remedial measures as appear to us calculated to prevent the recurrence of the evils produced, which we lay before you with the greatest deference.

System
proposed for
disposal of land.

The First, we would respectfully suggest, is that the Sale of Crown land by Auction may be altogether abolished. Secondly, that a fixed minimum price may be instituted, at which the Government will sell to all Applicants, agreeable to the date of Application, giving the preference to newly arrived immigrants, where the dates should happen to agree. Thirdly, that all newly arrived immigrants be allowed in land the expenses of their passage out agreeable to the Scale laid down in the former part of this memorial, And fourthly, that the Survey department be placed upon a more efficient footing. Should your Lordship doubt the correctness of our Statements, we then humbly pray His Majesty's Government will appoint a Commission to proceed to these Colonies to investigate the causes of complaint which have been laid before you, and into the operation of the present System adopted by Government in the disposal of waste Crown lands, a System which whilst it places the possession of land within reach of those who

Request for
commission of
inquiry.

have obtained original Grants, effectually excludes its possession by immigrants, giving rise to that species of Surreptitious possession of land, termed squatting, which has been found so well adapted in the pursuits of Cattle Stealing and Bushranging, which have arrived at such a height at the present moment as to render the possession of Cattle and other property in the Colony exceedingly precarious and insecure. To this last kind of occupation, viz., squatting, many persons, we believe, are driven, who would, were the present system Changed, become purchasers from the Government, but who, so long as it exists, choose rather to roam without any fixed abode, over our fertile plains, to the neglect of almost all other Agricultural pursuits, and instead of thriving farms and neat Cottages, nothing but the bark and log hut of the Stockkeeper is to be met with, or the secluded Mansion of a Wealthy proprietor. Should His Majesty's Government think fit to appoint a Commission of Enquiry, we trust the Commissioners may be instructed not to confine the evidence they collect to that which can be obtained from Old Settlers and large landed proprietors, but that it be extended to those who have arrived in the Colony since 1830, and who have felt the pressure of the present regulations; this we regret to say was not done by the Commission* appointed by the Colonial Government this Year, when the subject of immigration was under discussion; their enquiries were confined to those, who required the assistance of Laborers, and did not extend to that which could have been furnished by hundreds of respectable Mechanics, laborers and others, who have felt the advantages or disadvantages resulting from immigration to these Colonies by the Classes, to which they belong, but have permitted them to detail in letters to their friends and families at home their various success, which we fear has mostly been of a complexion calculated to produce the reverse of that which these gentlemen have so ably explained, and evidently desired.

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System of
squatting.

Limitation
of inquiry re
immigration.

Having thus laid before Your Lordship our present situation, and explained the hardships and disappointments we have experienced, together with such as are prospective in their operation, and solicited that assistance which we feel our case and the cause of immigration require, We beg to subscribe ourselves,

Your Lordship's most obedient humble Servant,

[Here followed a lengthy series of signatures.]

LORD GLENELG TO SIR RICHARD BOURKE.

(Despatch No. 206. per ship John.)

Sir,

Downing Street, 3d September, 1836.

3 Sept.

I have received your Despatch No. 46 of the 15th April last, respecting the Bill for £200 given by Mrs. Baxter, Widow of the late Attorney General, in consideration of an Advance to that amount issued to her from the Colonial Funds to enable her to return to this Country; and I have to acquaint you, in answer, that, as Sir James Gordon had declined to honor the Bill, and as there appeared to be no prospect of the Money ever

Despatch
acknowledged.

Refusal by
Sir J. Gordon
to pay bill
drawn by
widow of
A. M. Baxter.

* Note 145.

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3 Sept.

being recovered from Mrs. Baxter or from her Family, I was induced to recommend to the Lords Commissioners of the Treasury that the Charge should be admitted in the Accounts of the Colony.

I am, &c.,
GLENELG.

LORD GLENELG TO SIR RICHARD BOURKE.

(Despatch No. 207, per ship John; acknowledged by Sir Richard Bourke, 24th July, 1837.)

5 Sept.

Sir, Downing Street, 5th September, 1836.

Transmission
of act of
parliament.

I have the honor to transmit to you an Act,* which was passed in the last Session of Parliament, for "enabling Persons indicted of Felony to make their Defence by Counsel or Attorney"; and I have to desire that you will take measures for extending to the Colony under your Government the provisions of that Statute.

I am, &c.,
GLENELG.

LORD GLENELG TO SIR RICHARD BOURKE.

(Despatch No. 209, per ship John.)

7 Sept.

Sir, Downing Street, 7th Sept., 1836.

Despatch
acknowledged.

I have had under my consideration your Dispatch No. 110 of the 22nd Novr. last, with which you have forwarded a Memorial from Mrs. Jenkins, praying for compensation for the loss of a piece of Land which her late Husband had purchased and improved.

From the Papers before me, I collect that the facts of the case were as follows.

Statement
re claim of
E. Jenkins to
compensation.

Mr. Jenkins in the Year 1826 purchased the Land in question from Thomas Steele, the original Grantee. In the following Year, the Land was regularly surveyed by two Officers of the Surveyor General's Department, and by them entered on the Official Chart of the Colony. Mr. Jenkins' right to the Land being thus recognized, he proceeded to cultivate and improve it.

In June, 1832, Mr. Jenkins applied to the Government for the Title Deed, and the claim was referred to the Surveyor General for his Report. It was then discovered that, by an error in the Survey Department, this Land had been twice granted, and the consequence was that Mr. Jenkins was required to surrender the Land to Mr. Wentworth, to whom it had in the first instance been assigned. To compensate Mr. Jenkins for his loss, an equal

* *Marginal note.*—6 and 7 Will. 4, Cap. 14.

extent of Land was offered to him elsewhere; but he declined that offer, as he considered himself entitled not only to compensation for the Land of which he was deprived, but also for the value of the improvements made upon it. This claim was negatived by you; and the Widow now appeals to me against that decision.

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Statement
re claim of
E. Jenkins to
compensation.

Apparently the only ground, on which this claim can be resisted by the Government, is that Steele, through whom Jenkins claims, was debarred from selling the Land by the Regulation, which prohibited the alienation of Grants within seven years from their date on pain of forfeiture. That Regulation appears, however, to have been seldom or ever enforced; and there seems to be no doubt that, but for the mistake of the Surveyor's, it would not have been enforced in the present instance.

Under all the circumstances of the case, I am of opinion that Mrs. Jenkins has an equitable though perhaps not a legal claim to the compensation which she seeks; and you will, therefore, grant to her a remission of the Purchase Money for any Land, which she may bid for, equal to the value of that which she has lost and of its improvements.

Compensation
authorised for
E. Jenkins.

I perceive that she estimates those improvements at £300; and the Land at £25. You will of course cause enquiry to be made as to the correctness of her statement on that point.

I have, &c.,
GLENELG.

SIR RICHARD BOURKE TO LORD GLENELG.

(Despatch No. 95, per ship William Harris; acknowledged by lord Glenelg, 19th April, 1837.)

My Lord, Government House, 9 Sept., 1836.

9 Sept.

Your Lordship's Despatch of the 26th Feby. last, No. 112, containing a warrant for Mr. Plunkett's appointment as Atty. General and fixing the Salary of the Crown Solicitor at £800 a year, has been received, and the necessary steps are taken to carry your Lordship's commands into effect.

Despatch
acknowledged.

I should hope that this arrangement may be found sufficient, and that, with the occasional employment of a Barrister on the part of the Crown, the necessity for the appointment of a Solicitor General may be avoided. But your Lordship will have perceived by my Despatch of the 12th April last, marked "Separate," that the practicability of thus carrying on the Crown Business without inconvenience and arrears was denied by the Lawyers, and is now, I understand, controverted by a part of the Bench. The fact is that, in a Colony whose Population is increasing rapidly and wealth much more so, an arrangement, which was sufficient in 1833, may be very defective in 1836.

Doubts re
sufficiency of
appointments of
attorney-
general and
crown solicitor.

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9 Sept.

Misinterpretation of proposals *re* legal officers.

In one particular, however, I beg leave to observe that my meaning, in forwarding the Memorandum of Mr. Justice Burton and in recommending the arrangement it proposed, has been misunderstood. I did not conceive that any considerable saving in the actual issue of public money would be effected by it; but, finding it absolutely necessary to remodel the office of Crown Solicitor and considerably to encrease the Salary, I hoped that, by abolishing the Place of Solicitor General, I might find funds sufficient to remunerate a competent Crown Solicitor, without imposing additional charge on the public or impairing the efficiency of the Law Department. This object I have not been able fully to accomplish as relates to expence; Business has encreased, and I have found it necessary in this year to allow the Crown Solicitor the services of two Clerks whose joint salaries amount to £220 *pr.* annum, and to employ at each of the Criminal Sessions, which have occurred since the office of Solicitor General was discontinued, a Barrister to attend in the second Court when two were sitting simultaneously at an expence of more than £100 for each Sessions. These expences are not likely to diminish, and the charge for the Colonial Law Department, as at present constituted, may be taken at the amount set forth in the sub-joined statement.

Employment of clerks for crown solicitor and barristers in criminal court.

Appointment of J. Kinchela as judge.

Upon perusing that Statement, yr. Lordship will perceive that there remains no fund from whence to compensate the late Attorney General for loss of office. Fortunately, by his recent appointment to the Bench, he is for a time relieved from the unpleasant consequences which would otherwise have attended his supercession. He has addressed to your Lordship a Letter, which I have the honor to forward, praying that he may be confirmed in his present or receive some equivalent judicial appointment, if any opening shall occur. His deafness has certainly proved a less hindrance to his efficiency as a Judge than was generally expected. It is not easy for him when sitting alone to take down evidence with that promptitude which might be desired; but, in all the other duties of his office, in Banco, in Chancery or in Chambers, his legal knowledge and persevering research have been of essential service. I doubt not that, by a considerate arrangement of the Court Business, he may continue an effective Member of this Bench, or of any other similarly constituted to which he may be transferred.

Request by J. Kinchela for employment as equity judge.

In a Letter addressed to myself accompanying that to Your Lordship, and of which I transmit a Copy, Mr. Kinchela seeks the employment of Equity Judge in this Colony, under the impression that it may be thought fit to name a fourth Judge for this duty. For such an office, I am informed and believe

that he is peculiarly qualified. I am not prepared to say that such an addition to the Bench of the Colony is at present essential, but Chief J. Forbes, who is gone to England, will be able to render the best information and advice upon this point.

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9 Sept.

I cannot conclude this Despatch without repeating the testimony I have before given to the usefulness of Mr. Kinchela in every branch of his late duties as Attorney General, with which his bodily infirmity did not interfere. The statement, he has made respecting the large sums which have been directed into the public Treasury through his exertions in securing for the Crown the property of Persons convicted of cattle stealing, is perfectly correct. If, on the return of Chief Justice Forbes, he shall be removed from this Bench without any other provision being made for him, his Family will, I fear, be left nearly if not wholly without the means of support; and I cannot therefore too strongly recommend his case to your Lordship's most favorable consideration.

Testimony to services of J. Kinchela as attorney-general.

I have, &c.,

RICHD. BOURKE.

[Enclosure No. 1.]

MR. J. KINCHELA TO LORD GLENELG.

Sydney, New South Wales,

My Lord,

7th September, 1836.

His Excellency Sir Richard Bourke having communicated to me your Lordship's dispatch appointing Mr. Plunkett, late Solicitor General of this Colony, to the Situation of His Majesty's Attorney General which I had the honor to hold for the last five years, and having at the same time mentioned that your Lordship had been pleased to direct His Excellency to take the first opportunity of appointing me to any vacant office that it would be agreeable to me to hold, I beg gratefully to return your Lordship my sincere thanks for the favorable manner, in which you have been pleased to view my past services, as is apparent from the latter part of His Excellency's above communication.

Thanks by J. Kinchela for opinion *re* services.

Your Lordship has probably been informed before this that His Excellency was pleased, on the departure of Chief Justice Forbes from this Colony for England, to appoint me to the situation of a puisne Judge of the Supreme Court during his absence; and, as His Excellency may be pleased to state to your Lordship the manner in which I have discharged the duties of that high office since my appointment, I now take the liberty of respectfully submitting to your Lordship's consideration the claims which I conceive I have that I should be confirmed in my appointment as a Judge of the Supreme Court in case a vacancy Should occur in the Judicial Department of the Colony, or of being appointed to some other Situation of equal value when vacant.

Appointment as acting puisne judge.

Request for confirmation of appointment.

In the year 1830, I had the honor to be appointed upon the Strong recommendation as to my legal qualifications made by my friend the present Chief Justice of the Common Pleas in Ireland to the Situation of His Majesty's Attorney General of this Colony. I arrived here in June, 1831, and for nearly five years discharged the laborious responsible and various duties of that office with

Appointment as attorney-general.

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Services as
attorney-
general.

application and diligence and to the satisfaction of His Majesty's Government here, as I trust His Excellency the Governor will be pleased to report to your Lordship; during that period, I kept His Majesty's Government free from all legal embarrassments and trouble, and in no one instance did my legal advice lead the Government into any error or mistake, which, considering I have been the legal adviser of every department in the Colony in the most intricate questions, is to myself a matter of great consolation, and I may presume to add of great benefit to His Majesty's Service; neither was the Government defeated in any legal civil proceedings, which I advised to have commenced, and I was at all times anxious, in every matter in my power, to support and forward the measures of the Government.

Forfeiture of
felons' goods
enforced.

In the exercise of my discretion as Attorney General, I felt it my duty, in order to put a stop to the extensive system of cattle and sheep stealing prevalent in this Colony, to enforce the Law as to the forfeiture of felons' goods, and I have reason to believe the proceeding in a great measure has produced the effect intended; and there has already been sold on behalf of the Crown, and I believe actually paid into the Colonial Treasury of the proceeds of the sales of such property, a larger sum of money than I have received on account of my Salary since my arrival in the Colony.

Qualifications
for office of
judge.

As to my legal qualification to fill the office of a Judge, although I should presume that the manner in which I have for the many years efficiently performed the responsible and important duties of Attorney General would be a sufficient proof, from the experience I have had on the Bench of this Colony since my appointment to it (now upwards of four months), I can myself conscientiously say that I feel myself fully competent to discharge its high functions, and I assure your Lordship that I would be diffident in speaking thus myself, if I had not good reason to believe that, since I have had the honor of a seat on this Bench, I have given satisfaction not only to the Bar but to the public. In the equity branch of the Supreme Court, more particularly on account of my long experience in the Equity Courts of the Mother Country, I am gratified in knowing that I have been able to give some beneficial assistance to the Court, which is appreciated perhaps more than its merits.

Request for
further
employment.

If however your Lordship would deem it more expedient for the arrangements of His Majesty's service to place me in another Situation, I respectfully trust that the many years, I have faithfully assiduously served His Majesty in the West Indies and in this Colony, will be considered by your Lordship as entitling me to the most favorable consideration, and in such event I rely with confidence on the Justice of His Majesty's Government to place me in a situation, if not equal in rank, that it may at least be equal in emolument to the Office which I have for so many years held.

I have, &c.,

JOHN KINCHELA.

[Enclosure No. 2.]

MR. J. KINCHELA TO SIR RICHARD BOURKE,

Sir,

Hyde Park, 8th September, 1836.

Transmission
of letter.

I have the honor herewith to transmit to your Excellency my letter to the Right Honorable the Secretary of State for the Colonies, which you were pleased to say you would forward to His Lordship with your reports as to my services, whilst discharging

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the duties of Attorney General for this Colony. As I am satisfied that in that report you will be pleased favorably to state what you conceive my laborious and faithful services merit, I will not trouble you more particularly about them.

In my letter to Lord Glenelg, I have respectfully submitted to His Lordship's consideration my claims to be confirmed in my situation as Judge of the Supreme Court, to which your Excellency was pleased to appoint me, in case a vacancy should occur on the Judicial Bench of this Colony.

As however no such vacancy is likely to occur, I would take the liberty of suggesting that, as the equity business of the Supreme Court has already increased very much, and is likely further to increase from the nature of the conveyances and settlements, which were heretofore made by various parties in this Colony before they had obtained legal titles to their property, it may be deemed expedient to His Majesty's Government to appoint an assistant Judge for this Colony, whose duty it would be to attend to the Equity and Chamber business of the Court, particularly when the Circuit Courts shall be established, and the ordinary business of the Court so increased from the extended population and location of the Colony as to occupy the entire time of the other Judges, that the equity and Chamber business of the Court would even now occupy nearly the entire time of a Judge. I need only state that there are now in the equity side of the Supreme Court 157 cases, about 20 only of which have been decided, and the remaining number now remain in various Stages for the opinion and final decision of the court. The opinion of such Equity Judge might be subject to an appeal to the full Court, or His duty might be to submit his opinion to His Brother Judges for their approbation, before he pronounced a decree in any case, or the Office might be otherwise so regulated as His Majesty's Government might think proper to direct; and I trust I may not be thought too presumptuous in my opinion of myself when I state that I think I would be competent to fill such an office, in case His Majesty's Government should be pleased to appoint me to the Situation.

Proposal for appointment of equity judge.

Request for appointment as equity judge.

That my defect of hearing (which I understood from the Attorney General the other day was the cause of my removal from the office I had the honor to hold) is not such as to incapacitate me from discharging the duties of my present Judicial Situation, I will merely state that, during the last criminal Sessions of the Supreme Court, I sat an average number of days with the other Judges of the Court, and that, of the number of sixty four cases tried during the Sessions, twenty two cases were tried by me, and that of the number of capital cases reported by the Judges to your Excellency in Council the majority were (I believe) reported by me.

Ability to fulfil duties of judge.

In case however that it should not be deemed expedient to appoint me to the situation of one of the Judges of the Supreme Court here, as a public servant I am perfectly aware that the Government have a right to employ my services in whatever way they may be considered most beneficial to the public interest, and therefore to the best of my abilities I will diligently execute the duties of any other Situation to which I may be appointed; but there are no offices in this Colony likely to become vacant, nor any of which the salary is equal to that of the office I lately held; if however His Lordship would think proper to appoint me to a situation of a less Salary, I

1836.
9 Sept.

Request for
appointment
for son ;

and for salary
as retiring
judge.

would respectfully hope that he would be pleased (in consideration of my services) to appoint my son John (whose character, diligence and application to business are not I believe unknown to your Excellency) to some situation in this Colony, the salary of which would, together with the Salary of any office to which I might myself be appointed, nearly equal the Situation I lately held; in case however that there should be no situation vacant, to which I might be appointed by the time Chief Justice Forbes shall return to this Colony, I would respectfully hope (that I might not be left without any means of maintenance) that His Lordship would be pleased to consider me entitled to the reduced Salary of a retiring Judge, the same as was granted to the late Mr. Justice Stephen on retiring from the Bench in this Colony, the payment of which might be suspended in case of my appointment to any office.

Whatever may be the decision of His Majesty's Government respecting any Further employment or provision for me, I feel perfectly assured that neither His Lordship nor your Excellency would wish to see a faithful and laborious servant of the Government, after many years services, left unprovided and without any means of support either for himself or for his family.

I have, &c.,

JOHN KINCHELA.

[Enclosure No. 3.]

Expense of law
department.

STATEMENT of the Expense of the Law Department of New South Wales as at present constituted.

	£	s.	d.
Attorney General	1,200	0	0
Clerks to do.	270	0	0
Messenger to do.	32	0	6
Crown Solicitor	800	0	0
Clerk to do.	220	0	0
Fees to Barristers occasionally employed for the Crown	450	0	0
Annual charge	£2,972	0	6

N.B.—The Clerks, herein estimated for, formed part of the arrangement proposed by Mr. Justice Burton in his Mem. of May, 1833.

Expense of
former
establishment.

STATEMENT of the Expense of the former Establishment.

	£	s.	d.
Attorney General	1,200	0	0
Clerk to do.	150	0	0
Messenger to do.	32	0	6
Solicitor General	800	0	0
Clerk to do.	120	0	0
Messenger to do	32	0	6
Crown Solicitor	500	0	0
	£2,834	1	0

N.B.—If the former Establishment be restored, it will be necessary to Estimate for an additional Expense of £520 per ann. to render the Office of Crown Solicitor effective.

SIR RICHARD BOURKE TO LORD GLENELG.

1836.
10 Sept.

(Despatch No. 96, per ship William Harris; acknowledged by lord Glenelg, 4th May, 1837.)

My Lord, Government House, 10 Septr., 1836.

As it does not now appear to be the intention of His Majesty's Government to discontinue the transportation of Female Convicts to this Colony, and as, by the frequent arrivals of Female Emigrants, the demand for Convicts for private service has become much less, I have thought it necessary to place upon an Establishment more suited to its present numbers the Prison, or Factory as it is here called, in which all Female Convicts are detained when not in assigned service, or married to Residents in the Colony, or possessing the indulgence of a Ticket of Leave. By perusing the accompanying weekly state, your Lordship will perceive the numbers which are now usually assembled in the Factory at Parramatta.

Reorganisation of establishment of female factory.

The management of this Place of confinement has hitherto been confided to a Matron aided by the occasional inspection of a Committee of Gentlemen including the Chaplain and Surgeon. The Committee of Ladies, concerning whom your Lordship has enquired in your Despatch of the 5th Feby. last, No. 106, did not long continue to act. Before my arrival here they had ceased to exist as a body. Hence the discipline of the place, which never was good, became relaxed, and a reform in the Institution was evidently required. I despaired of being able to accomplish any of the objects noticed in your Lordship's Despatch to which I have referred, or those contemplated by Mr. Spring Rice in his communication of the 4th September, 1834, until a better organization was introduced. Complaints made by the Committee of the misconduct of the family of the Matron residing with her within the walls determined me no longer to delay an attempt to place the Prison upon a better footing. I have accordingly, from the 1st of the present month, appointed a married couple, with whose behaviour in other situations of trust I had reason to be fully satisfied, to be keeper and matron, and have allowed a number of Turnkeys, Male and Female, sufficient to exercise a vigilant control over the Prisoners. Labor from the most criminal and refractory class is to be obtained to a greater extent than heretofore by breaking stones for the Roads and Streets of Parramatta, and suitable occupation for the better conducted women will be obtained as far as circumstances permit. A School will be opened in the Prison, and the instruction and employment of these out-east women will, I hope, be occasionally superintended by the Committee of Ladies, which I hope to recognise under the

Management of factory.

Withdrawal of committee of ladies.

Necessity for reform.

Appointment of married couple as keeper and matron and of turnkeys.

Labour to be provided.

School to be opened.

1836.
10 Sept.

influence of a circular from Mrs. Fry, which I have caused to be distributed wherever I thought it would be well received.

Increase of
expenditure.

These arrangements will necessarily be productive of increased expence, but there was no alternative between expence and the mischief and discredit of an ill-conducted Prison. I transmit a Return of the present and of the former establishment. I should add that, as the late Matron was discharged without any blame attaching to her personally (her removal being required to make room for the married couple who take the offices of Keeper and Matron), I have thought it right to allow her one year's salary after a service of nine. I trust these arrangements will answer the purpose I design, and may meet with your Lordship's approbation and allowance.

Allowance
for matron.

I have, &c.,

RICHD. BOURKE.

[Enclosure No. 1.]

EXTRACT from New South Wales Government Gazette of Wednesday,
7 September, 1836.

Return of
inmates in
female factory.

STATE of the Female Factory, Paramatta, on the 3rd day of September, 1836.

Under Colonial Sentence	273
In Solitary Confinement	5
Confined by order of the Keeper	0
Nursing Children	108
Old and Infirm	23
Monitresses, Servants and Cooks	22
In Hospital	22
Sick in Factory	8
Assigned, waiting to be withdrawn	15
Number assignable	114
Total number of Women	590
Children under one year	68
Ditto under two years	32
Ditto under three years	34
Total number of Children	134

THOMAS BELL, Keeper.

[Enclosure No. 2.]

RETURN of the Establishment of the Female Factory, Parramatta,
with the alterations made on the appointment of a Keeper with
his Wife as Matron.

Return of
former and
present estab-
lishments.

Establishment as formerly authorised.	£ s. d.		Establishment authorised from 1st September, 1836.	£
	£	s. d.		
1 Matron	150	0 0	1 Keeper	200
1 Assistant	50	0 0	1 Matron	100
1 Portress	50	0 0	3 Turnkeys (Male) at £60 each	180
1 Midwife	50	0 0	4 Turnkeys (Female) £50 each	200
6 Monitresses at £12 3s. 4d. each	73	0 0	1 Clerk*	120
1 Constable	41	1 6	1 Midwife	50
1 Gate Keeper	41	1 6	1 Chaplain	50
1 Storekeeper	109	7 0	1 Roman Catholic Chaplain	50
1 Clerk	91	5 0	1 School Master (or Mistress)	50
1 Chaplain	50	0 0		
	£705	15 0		£1,000

* It is proposed that the Clerk with his augmentation of salary shall perform the duties of the storekeeper, who is discontinued from the 1st October, up to which time both Clerk and Storekeeper are paid according to the former establishment. The constable at 1s. 3d. a day was also retained up to that date.

SIR RICHARD BOURKE TO LORD GLENELG.

(Despatch No. 97, per ship William Harris; acknowledged by lord Glenelg, 19th May, 1837.)

1836.
11 Sept.

My Lord, Government House, 11 Sept., 1836.

I have the honor to forward for His Majesty's gracious allowance "An Act to enable the Proprietors of a certain Company, carried on in the Town of Sydney in the Colony of New South Wales under the name and firm of 'the Union Assurance Company of Sydney,' 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."

Submission for approval of Union assurance company's act.

As no Private Act of this nature takes any effect until His Majesty's pleasure is signified in the Colony, I venture to request as early attention to this communication as circumstances will admit.

I have, &c.,

RICHD. BOURKE.

SIR RICHARD BOURKE TO LORD GLENELG.

(Despatch No. 99, per ship William Harris; acknowledged by lord Glenelg, 13th April, 1837.)

My Lord, Government House, 13th Septr., 1836.

13 Sept.

I regret to have to inform your Lordship that the illness of Mr. Hely, late P. Supt. of Convicts, mentioned in my Despatch of the 17th June last, terminated fatally on the 8th inst. In that Despatch, I have proposed, as successor to Mr. Hely, Mr. Ryan Brenan, who was strongly recommended, I might indeed say sent out, for employment in this Colony by Lord Ripon, and who has during Mr. Hely's incapacity performed his duty to my entire satisfaction at $\frac{1}{2}$ salary. I have now placed Mr. Brenan in the vacant office on full salary, in which I hope to receive your Lordship's authority to confirm him.

Death of F. A. Hely.

Nomination of R. Brenan as superintendent of convicts.

I have, &c.,

RICHD. BOURKE.

SIR RICHARD BOURKE TO LORD GLENELG.

(Despatch No. 100, per ship William Harris; acknowledged by lord Glenelg, 29th August, 1837.)

My Lord, Government House, 14th Sept., 1836.

14 Sept.

In transmitting for His Majesty's gracious allowance twelve Acts, passed by the Governor and Council of this Colony during the present year, it is unnecessary that I should trouble your Lordship with any prolonged Report, the more important of them having been already the subject of correspondence with

Submission of acts of council for approval.

1836.
14 Sept.

H.M.'s Government, and the remainder being reduced in number from the desire I have felt to reserve many questions I should otherwise have brought forward, for the decision of the Legislative Assembly which may be expected to replace the present Council in the ensuing year.

Act for
extension
of jury act.

6 Wm. 4, No. 15. An Act further to continue for a limited time an Act, intituled "An Act for Regulating the constitution of Juries, and for the trial of Issues in certain cases in the Supreme court of New South Wales and to make further provision for trial by Jury" (9 June, 1836).

Upon the subject of this Act, I have already addressed your Lordship in my Despatch of the 10th June last, No. 60. The opinions of the Judges and Law Officers, which I transmitted with that Despatch and also with my communication of the 13th April previous, No. 45, cannot have failed to attract your Lordship's attention as strongly confirmatory of the views, which I have uniformly expressed on this important subject.

Act re validity
of land grants.

6 Wm. IV, No. 16. An Act to remove doubts concerning the validity of grants to Land in New South Wales (9 June, 1836).

This act was passed in conformity to the suggestions of Your Lordship's Despatch of the 30 September, 1835, No. 53, which conveyed the permission of His Majesty for its proposal to the Legislative Council. It will be sufficient to refer to that Despatch and to mine of the preceding 16 Feby., to which it is an answer, for a full statement of the circumstances under which this measure was adopted.

Continuance
of bushranging
act;

6 Wm. 4, No. 17. An Act to continue for a limited time an Act intituled "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" (9 June, 1836).

The reasons for continuing this Law, the circumstances of the Colony remaining unchanged, are the same with those which led to its enactment for two years in 1833. One of the Judges having then protested against it as being contrary to the Law of England, I had occasion to bring it very fully under the attention of H.M.'s Government. The King's gracious allowance, over-ruling the objections of the Judge, was signified by your Lordship's Despatch of the 5th September, 1835, No. 48. Any further observations on my part would therefore now be superfluous.

and of relief
of debtors act.

6 Wm. 4, No. 18. An Act further to continue for a limited time "An act for the relief of debtors in Execution for debts which they are unable to pay" (9 June, 1836).

Some changes may be desirable in the Law of this Colony relating to Insolvent Debtors. Not deeming it, however, expedient to discuss the question in the Council now so near its Expiration, I have renewed the present Act for two years, at the close of which a new measure will probably be passed by a Legislative Body more adapted to Express the wishes and consult the interests of the Community.

1836.
14 Sept.

7 Wm. 4, No. 1. An Act for ascertaining the number of Inhabitants of the Colony of N. S. Wales in the year 1836 (5 July, 1836).

Census act.

Three years having elapsed since the last Census, another seemed desirable, more particularly as the approaching changes in the Legislature of the Colony may give it a representative character, and require, for an adjustment of its details, a correct Estimate of the Population of its several Towns and divisions of Territory.

7 Wm. 4, No. 2. An Act for the amendment of the Law respecting Pilots and Pilotage (22 July, 1836). This Act proceeds upon a principle long recognized by the Cinque Ports, namely that Pilots boarding vessels at extraordinary distances may charge for their additional trouble, if voluntarily employed by the Master, but not otherwise. Some of the Sydney Pilots having built a Vessel at their own expence for the purpose of assisting Ships at a greater distance than has been possible with the ordinary Pilot Boats, an amendment of the Port Act became necessary to enable them to receive the just reward of their extra duty and expence.

Act amending
act re pilots
and pilotage.

7 Wm. IV, No. 3. An act* to promote the Building of Churches and Chapels and to provide for the maintenance of Ministers of Religion in New South Wales (29 July, 1836).

General
church act.

This Act is founded on the principle sanctioned by your Lordship's Despatch of the 8th August, 1836, No. 81. It met with no opposition in the Council, and I have the greater confidence in assuring your Lordship that the measure meets with the sincere and grateful acquiescence of all classes of this Community from the certainty that, if any opposition whatever could have been organized against it, it would have been brought up in array by the Bishop of Australia; His Lordship's avowed antipathy to the tolerant principle of the Act now transmitted is no less bitter than that, which he entertains against the system of National Education. It will probably be remarked that the Act is deficient in those provisions for the details of management which are usual in legislating for the Building and Maintenance of Churches. Clauses of this nature were inserted in

* Note 146.

1836.
14 Sept.

General
church act.

the original Draft of the Bill; but, having shewn it as a matter of courtesy to the Bishop of Australia, His Lordship expressed, in a letter addressed to me on the subject, an objection to "mixing up" in one Act the arrangements of the Church of England's Temporalities with those of any other Communion. I yielded to His Lordship's objection, and omitted those provisions. Further Legislation will on this account be necessary hereafter; but none that can affect the principle of the measure which I consider fully and definitely established by the present Act.

7 Wm. IV, No. 4. An Act to restrain the unauthorized occupation of Crown Lands (29 July, 1836).

Act to restrain
unauthorised
occupation of
crown lands.

The motives, which have led to the proposal of an act of this nature, have been partly disclosed in my Despatch of the 18 December last, No. 119. I have there said it is very difficult to devise a Plan that shall meet the circumstances of all the Parties in the unauthorized occupation of Crown Lands, and to restrain and remove the dishonest, without putting a weapon into the hands of selfishness or oppression. There is a natural disposition on the part of the wealthy Stock holders to exaggerate the offences of the poorer class of intruders upon Crown Land, and an equal unwillingness to submit themselves to such restraints as are essential to the due and impartial regulation of this species of occupancy. Of the former disposition, I have had ample proof in the result of an enquiry lately instituted as to the number of Ticket of Leave Holders in unauthorized occupation of Crown Land. The dishonest practices of this Class of Persons in such occupation had been represented as one of the principal evils which required a remedy. I have not, however, discovered from the Returns of the Magistrates, which I have called for, that more than from 20 to 30 Ticket of Leave Holders occupy Crown Lands throughout the whole Colony, and of these a great proportion are reported to be particularly industrious and honest. The measure originally before the Council rendered every species of occupation, down to the mere wandering of Cattle, obnoxious to a Penalty. I found, however, a strong objection to this on the part of the wealthy graziers in the Council, and was induced to yield to them so far as to restrict the Act to cases in which the occupation is manifested by some kind of building or cultivation. On the other hand, I have compensated for this alteration, made in favor of the rich by a further security from the oppressive enforcement of the Law against the Poor, confining the power of informing under it to the Commissioners of Crown Lands, who are appointed by the Government. The Bill first introduced (which included equally the

Cattle and Sheep of the rich, and the Hut and Crops of the Poor) enabled any Proprietor of Land to inform and sue for the Penalty.

1836.
14 Sept.

Act to restrain unauthorised occupation of crown lands.

From the commencement of the next year, I propose to grant Licenses for occupying Crown Lands, as contemplated by the Act. I have no desire to disturb any honest occupier without the limits of location, nor to remove any within those limits, unless to make room for a purchaser. Within the limits, Leases will be granted as heretofore.

The recognition of the rights of the Crown involved in taking out periodical Licenses and in the multiplication of Leases will be an important advantage. In point of Revenue, both are not likely to yield more under the system I propose to adopt than will pay the expences of the Commissioners appointed to carry it into effect. When this measure shall be in full operation, I propose to report further upon the subject.

7 Wm. 4, No. 5. An Act for applying certain sums arising from the Revenue receivable in New South Wales to the service thereof for the year 1837, and for further appropriating the said Revenue (5 Aug., 1836).

Appropriation act.

This Act, with various documents in illustration of it, has been already submitted to your Lordship by my Despatch of the 7th Augt. last, No. 85.

7 Wm. 4, No. 6. An Act to prevent clandestine Marriages and to provide for the issuing of Licences (5 Augt., 1836).

Marriage act.

This Act was adopted on the suggestion of one of the Judges and is in conformity to the Law of England.

7 Wm. 4, No. 7. An Act for better regulating the keeping and carriage of Gun-Powder (11 August, 1836).

Act to regulate keeping and carriage of gunpowder.

The arrival of an ordnance Establishment in the Colony suggested this amended Law, by which the duties of the Store-keeper with reference to this essential Branch of Police are defined and regulated.

7 Wm. 4, No. 8. An Act for adopting certain Acts of Parliament, passed in the 3rd and 4th years of the reign of His present Majesty King William the Fourth, in the administration of Justice in New South Wales in like manner as other Laws of England are applied therein (12 Augt., 1836).

Act for adopting acts of parliament re dower and inheritance.

These Acts (for amending the Law of Dower and Inheritance) have been adopted at the suggestion of the Judges and Law Officers.

One private Act only has been passed this Session and is transmitted with my Despatch of the 11th Sept. instant, No. 97.

I have, &c.,

RICHD. BOURKE.

1836.
15 Sept.

LORD GLENELG TO SIR RICHARD BOURKE.

(A circular despatch per ship John.)

Sir, Downing Street, 15th September, 1836.

I have to request your attention to a subject connected with the interest of the Post Office Revenue.

Transmission of private letters in official bags of despatches.

I have recently learnt that, in the sealed bags of dispatches transmitted to this Office by the Governors of various Colonies, it is customary to inclose numerous letters and packages unconnected with the Public business, and bearing no Signature or superscription* from which it could be inferred that they had been placed there by the authority of the Officer administering the Government. I have therefore to request that you would give directions to the persons, who shall be entrusted by you with the duty of making up and sealing your dispatches, that no private letter or package accompany them which is not endorsed with your own signature.

Prohibition of practice.

It is I am persuaded unnecessary to add any caution to yourself against granting that signature except in favor of letters which, upon a fair and liberal construction of the law, you may think entitled to the privilege of being exempted from postage. Every letter and package, which is not either addressed to myself or superscribed with your name in your own handwriting, will be sent to the General Post Office, in order that the regular postage may be charged upon it.

Postage to be charged on private letters.

I have, &c.,

GLENELG.

SIR RICHARD BOURKE TO LORD GLENELG.

(Despatch No. 101, per ship William Harris; acknowledged by lord Glenelg, 31st May, 1837.)

My Lord, Government House, 15 Sepr., 1836.

In acknowledging the receipt of your Lordship's Despatch of the 13th April last, No. 142, I have the honor to state that I lost no time in acting upon the permission it contains to open the Country about Port Phillip to Settlers and to Establish Civil Authority in the District for the protection of the Aborigines and the due administration of the Laws.

His Majesty's Ship Rattlesnake being in Port Jackson when Your Lordship's Despatch was received, I proposed to Captn. Hobson to proceed to Port Phillip immediately, taking with him Captn. Wm. Lonsdale† of the 4th Regt. of Infantry, whom I have appointed Police Magistrate for the District and who is to command a small detachment of that Corps which I have since

Opening of country and establishment of civil authority at Port Phillip.

Appointment of W. Lonsdale as police magistrate.

* Note 147.

† Note 148.

ordered there. In the Government notice* of which I have the honor to transmit a copy, I intimated to the Inhabitants of N. S. Wales and Van Diemen's Land the authorised occupation of the Shores of Port Phillip.

1836.
15 Sept.

Notice *re*
authorised
settlement.

I have despatched to that Place a party of three Surveyors with the necessary apparatus and attendants. I propose to have the Land measured off into Sections, and portions put up periodically for sale in conformity to His Majesty's Instructions. By a previous measurement of this sort, the selections by Individuals, in which all sales originated in this part of the Colony, and the delay and inconvenience attendant on this process will be avoided.

Surveyors sent
to Port Phillip.

Proposed
periodical
sales of land.

I have also appointed an officer of Customs and a Tide Waiter to reside at Port Phillip, the constant intercourse with Launceston rendering an immediate arrangement necessary.

Appointment of
customs officer
and tide-waiter.

I have the honor to enclose a List of the appointments, which have up to this date been made for Port Phillip and a copy of my Instructions to Captn. Lonsdale. I propose that the whole expense of the Establishment and contingent charges at that place shall for the present be defrayed from the Revenues of Crown Lands, the amount of which will, I anticipate, be much augmented by the sale of the Lands of that District.

Transmission
of papers.

Expenditure to
be charged on
land revenues.

I have caused a communication to be made to Mr. Batman and his associates informing them of His Majesty's Command that the District should be opened for location, and requesting that some part of the Company should attend at Sydney to arrange the terms, on which the Association will be permitted to retain some small part of the Land they had taken possession of. I propose to take the benefit of the advice of the Executive Council in making this arrangement.

Proposed
negotiations
with Port
Phillip
association.

I beg leave to observe that, although I find by the act of Parliament† that the Southern Australian Company have received authority to occupy a large portion of the Territory placed by His Majesty under the Government of New South Wales, I have no intimation whatever of the circumstance nor of the formation or proceedings of the Company from His Majesty's Government. I have been led to make this observation from remarking that the part of Port Phillip called *Geelong*, which will probably be used as the Harbour, is not above one hundred miles distant from the 142d degree of East Longitude, which forms the Eastern Boundary of the Company's Grant. The Flocks of the Colonists will probably ere long be spread over the intermediate space, and with them Convict Servants will be brought within the neighbourhood of the Company's Possessions. If this should prove an

Want of
instructions
re South
Australian
company.

Probable
results of
geographical
position of
company's
grants.

* Note 149.

† Note 109.

1836.
15 Sept.
Inability to
prohibit
convicts at
Port Phillip.

inconvenience to either Government, it must be remedied in the best way it can. It would have been quite impossible to have restricted the Settlers of New South Wales or Van Diemen's Land from the use of Convict Servants in the District of Port Phillip.

I have, &c.,

RICHD. BOURKE.

[Enclosures.]

[Copies of these papers will be found in a volume in series III.]

LORD GLENELG TO SIR RICHARD BOURKE.

(Despatch No. 210, per ship John.)

16 Sept.
Despatch
acknowledged.

Sir,

Downing Street, 16th Sept., 1836.

I have received your Despatch No. 41 of the 3d April last, submitting for my consideration a Minute of the Executive Council, in which a question is raised, whether officers, who while serving with their Regiments in New South Wales had purchased any Land, could, consistently with the terms of my despatch No. 17 of the 4th July, 1835, be allowed the Remission of Purchase money on any Crown Land which they might buy after retiring from active Service.

Instructions
re remission
on purchase
money for land
for military
settlers.

In answer I beg to acquaint you that the object of my Despatch, No. 17, was to declare that no Officer was entitled to that Remission, who had already settled in the Colony, or who had received a Grant of Land from the Government. But it certainly was not my intention to deny the benefits of the existing Regulations to an Officer, who, while serving in the Colony, had acquired Land by purchase; and you will, therefore, grant to Officers of this Class, when they finally settle in the Colony, the advantages for which their Rank and Service render them eligible.

I am, &c.,

GLENELG.

SIR RICHARD BOURKE TO LORD GLENELG.

(Despatch No. 102, per ship William Harris; acknowledged by lord Glenelg, 17th June, 1837.)

My Lord,

Government House, 16th Sept., 1836.

Despatch
acknowledged.

I have the honor to acknowledge the receipt of your Lordship's Despatch of the 26 February last, No. 111, and beg leave to return my grateful acknowledgments for the kind and early attention your Lordship has condescended to pay to the application I addressed to Lord Aberdeen on the 1st Augt., 1835. The expression of your Lordship's favorable opinion of the measures

of my Government, with which the intimation of this act of kindness is accompanied, has rendered it doubly acceptable. In the appointment of Mr. Deas Thomson to the office of Colonial Secretary, I trust that, together with the great advantage which I shall personally experience in communicating with a Functionary whose sentiments on Colonial Subjects are in accordance with mine, the Colony will derive important benefit from the services of an honest and intelligent public servant.

1836.
16 Sept.

Advantages expected from appointment of E. D. Thomson.

Having communicated by Letter to Mr. Macleay the substance of your Lordship's despatch, I received in reply a request to allow him to peruse it. I appointed a meeting, and took with me the draft of my Despatch* to the Earl of Aberdeen and your Lordship's reply of the 26 Feby., both of which I put into his hands. When he had perused them, I informed him, with reference to that part of the letter in which your Lordship observes that in appointing a Successor to Mr. Macleay you bore in mind "the necessity of fortifying me by the most effective assistance in the commencement of any new system of administration, which may be consequent upon the approaching alteration of the New S. Wales act," that I had more than once represented to His Majesty's Ministers the difficulty I experienced in carrying on the Government of the Colony through the agency of Public Servants, many of whom openly professed opinions hostile to the principles of my administration; and, though I had not officially applied for the appointment of a successor to the Colonial Secretary until Mr. Macleay had publicly announced the probability of his retirement from office within a year, yet the necessity for a change was long known at the Colonial Office, and, contemplating the alterations which will probably soon take effect in the form of the Legislature of New South Wales, had become indispensable. I added that, though they could not have influenced your Lordship's decision, yet that its correctness had been clearly manifested by the late proceedings of Mr. Macleay both in and out of Council upon the subject of National Schools. It had now become evident to every one that either the Governor or the Colonial Secretary ought to withdraw.

Interview with A. Macleay re his retirement.

Statement by Sir R. Bourke re opposition of A. Macleay.

Mr. Macleay on his part seemed to doubt whether what he had said in Council ought to be considered as notice of his intention to quit office, and vindicated his general conduct, expressing his determination not to resign, and declining in consequence to name the time at which it would be convenient to him to give place to his successor.

Reply by A. Macleay.

Refusal to resign.

Under these circumstances, I informed him that, being anxious to comply with your Lordship's instructions for consulting Mr. McLeay's convenience to the utmost extent compatible with the

Appointment of E. D. Thomson postponed.

* Note 150.

1836.
16 Sept.

Pension of
A. Macleay.

Objections
to charge of
pension on
colonial
revenues.

interests of the public service, I would postpone issuing Mr. Deas Thomson's Commission until the first of January next.

During this interview, some observation was made by Mr. Macleay with regard to his Pension of £750 a year, which he did not consider secured to him by anything contained in your Lordship's despatch. I called his attention to the part in which his being in actual possession of a superannuation allowance is stated to be one of the circumstances, which facilitated his removal from office, and ventured to assure him that the continued enjoyment of his Pension was in no way endangered. Having said thus much on the subject, I think it my duty to add that to leave this Pension a charge upon the Revenues of the Colony would be regarded by the Colonists as a great grievance. It would cause a discussion in the Legislative Body very embarrassing to the Government, ultimately to terminate in its discomfiture. The Colonists, considering the Pension to be the reward of services (long and valuable as I believe) rendered to the Mother Country, are unanimous in asserting that payment should be made from the British Treasury.

I have, &c.,

RICHD. BOURKE.

[Enclosure No. 1.]

SIR RICHARD BOURKE TO HON. A. MACLEAY.

My dear Sir,

Paramatta, 30th August, 1836.

You desired a few days ago to be informed if I had received any Despatch from the Secretary of State upon the subject of Mr. Deas Thomson's appointment to the office of Colonial Secretary in New South Wales. The Despatch, which I had not then received, has reached me this evening by the Lord Goderich. It is dated the 26th of February last, and encloses Mr. Thomson's Commission. In giving effect to this Appointment, I beg to assure you that it is not less in accordance with my own wishes than in conformity with the Instructions of Lord Glenelg to consult your convenience to the utmost extent, which may be compatible with the public service; and I am therefore desirous to postpone the actual issuing under the public seal of the Colony of the Commissions, which I have received, until the expiration of any moderate and reasonable period, for which with a view to the arrangement of your public or private affairs you may wish to have the measure delayed.

I have, &c.,

RICHD. BOURKE.

[Enclosure No. 2.]

HON. A. MACLEAY TO SIR RICHARD BOURKE.

My Dear Governor,

Sydney, 2nd September, 1836.

I was favored two days ago with your Letter of the 30th ultimo, informing me that you had that evening received a Despatch from the Secretary of State, dated the 26th February, inclosing Mr. Thomson's Commission as Colonial Secretary; and I have hitherto delayed acknowledging the receipt of your obliging

Letter
acknowledged.

Despatch
received *re*
appointment of
E. D. Thomson
as colonial
secretary.

communication in the hope that I should receive some public or private Letters by the Ship "Moffatt," which might throw some light on the matter so far at least as to explain the cause of a Gentleman being appointed to succeed me before my situation became vacant.

1836.
16 Sept.

I have now received Letters from several Friends in England, who advert to the announcement in the Gazette, and conclude that it was in consequence of my having resigned my office, although they express surprise at not having heard of the circumstance from myself.

Private letters received by A. Macleay.

They could not indeed have heard of my having resigned, because I have never done so either directly or indirectly; and my health, thank God, is as good as it was when I first undertook the Duties of my Office. You will therefore, I am sure, readily conceive that the appointment of a successor, without any previous notice having been given to me, has occasioned me very great surprise; and, under such unprecedented circumstances, I trust your Excellency will not deem it an unreasonable request that I may be permitted to peruse the Despatch of Lord Glenelg, as an acquaintance with the grounds upon which His Lordship has acted is necessary to enable me to decide upon the course which it becomes me to pursue.

Surprise at appointment of successor.

Request for perusal of despatch.

Yours, &c.,

ALEXR. M'LEAY.

LORD GLENELG TO SIR RICHARD BOURKE.

(Despatch No. 211, per ship John.)

Sir,

Downing Street, 18th September, 1836.

18 Sept.

I have the honour to acknowledge the receipt of the following communications:—Your Despatch No. 102 of the 14th of Octr., 1835, transmitting a report of a Committee of the Legislative Council of New South Wales on the Subject of Emigration, and detailing the measures which you would recommend for promoting the Emigration of a class of Persons most required in the Colony. Your Despatches, No. 17 and 26 of the 10th and 28th of February last, introducing Doctors Boytor and Osborne of the Royal Navy as the Gentlemen whom you have chosen for the purpose of Selecting and conveying to the Colony two Shiploads of married mechanics and Labourers with their Families; together with Your Despatch No. 32 of the 3rd of March last, transmitting a detailed statement of the manner in which the Emigrants by the "Canton" have been finally disposed of and a brief Report on the Female Emigrants who had just arrived by the "James Pattison." The former report I directed to be sent to the Emigration Committee in London, and the latter to the Committee in Cork, by whom respectively the Emigrants in question were selected.

Despatches acknowledged in reference to emigration.

I have now the honour to enclose you Copies of a correspondence, which has taken place between one of my Under

Correspondence transmitted.

1836.
15 Sept.

Secretaries (Mr. Stephen) and the Assistant Secretary to the Treasury (Mr. Spearman) on the subject of your Despatch of the 14th of October, 1835, detailing the measures which I feel disposed to adopt for carrying into effect your views on the subject of Emigration.

Assistance for
mechanics and
agricultural
labourers as
immigrants.

You will perceive that it has been determined to supersede the present system of exclusive Female Emigration, and to increase the assistance granted to Mechanics and Agricultural Labourers by extending a graduated Scale of Bounties to their Children, and to any young women emigrating under their immediate protection.

Bounties
proposed.

With this view, it has been determined to Grant a Bounty of £30 for each married couple, A Bounty of £5 for each of their Children between two and seven years, A Bounty of £10 for each child between seven and fifteen, A Bounty of £15 for each unmarried Daughter between fifteen and thirty, and a similar Bounty for any unmarried Female above eighteen and under thirty years of age, proceeding to the Colony under the protection of a Married couple. The above Rates of Bounty will, according to the present Rate of Passage charged from this Port, nearly, if not entirely, defray the cost of their conveyance to the Australian Colonies.

Approval of
appointment
of agents for
selection of
emigrants in
Great Britain.

With respect to the most efficient means of securing the selection of a proper class of Emigrants, I am prepared to sanction the appointment by the Colonial Government of Agents of the Description suggested by you; to whom, either alone or in conjunction with Committees of Emigration similar to those at present existing in London and Cork, the duty of selecting the Emigrants should be confided. I wish, however, to draw your attention to that part of Mr. Spearman's letter referring to this point, in which he expresses the opinion of their Lordships that it would be advisable to consider the appointments of the present agents (Doctors Boytor and Osborne) as experimental only; and looking to the heavy charges for agency that will attend the proposed mode of proceeding, in the event of several shipments taking place in the course of each Year, their Lordships suggest, for my consideration, whether the selection by each of the Local Governments of New S. Wales and Van D. Land of some Persons sufficiently acquainted with the state of the settlements and the wants of the Inhabitants in regard to peculiar descriptions of artificers and Labourers, to be employed as resident agents here, might not be a preferable arrangement both in point of expense, and as affording opportunity for the Party Selected to acquire

much valuable experience as to the mode of obtaining the Classes of Emigrants best calculated to supply those wants.

1836.
18 Sept.

Altho' the adoption of this System would undoubtedly be attended with considerable advantage on the ground of economy, I am not prepared at once to accede to it, in preference to the plan which you have recommended. The great object to be kept in view is the efficiency of the agency, employed in the Selection and Conveyance of the Emigrants; and I do not see how a portion of the Revenues of the Colony could be more appropriately expended than in adequately providing for such agency.

In consequence of the arrangements described in my Despatch to you, No. 100, of the 30th of Jany. last, you are aware that there still remains another vessel to be despatched under the present Regulations from Ireland to Sydney, the latter part of October next. With the view, however, of meeting your wishes on this subject, as far as may be practicable, I have determined on a partial application of the system here described in the case of that vessel.

Ship to sail
with emigrants
from Ireland.

I propose to avail myself of the services of Doctor Osborne, in conjunction with those of the Emigr. Committee at Cork, with a view to the Selection of a suitable class of Emigrants; and also for the purpose of arranging with that Committee an effective plan for carrying into execution the Instructions furnished by you to that officer. I transmit to you copies of Communications, which have been addressed by my direction to Doctor Osborne and the Chairman of the Cork Emigration Committee; and, altho' it is stated in each of those letters that no single females should be assisted to emigrate but such as were proceeding under the protection of a family, with whom they were to reside on arrival in the Colony until otherwise provided for, yet as some young women will in all probability have been selected by the Committee prior to their receipt of the letter before referred to, I have to request that, in the event of any such Emigrants arriving in that vessel, you will extend to them the same protection and support as others similarly circumstanced have hitherto experienced, until they may be provided with suitable situations.

A. Osborne to
assist in
selection of
emigrants from
Ireland.

Instructions
re unmarried
female
emigrants.

With respect to the other agent (Doctor Boytor) whom you have sent home to collect and convey to the Colony a cargo of Emigrants from Scotland, I enclose you a copy of a communication which I have directed to be addressed to him, instructing him to make immediate arrangements for carrying your Instructions into effect; and I should presume that he will be enabled to leave this Country in the course of the present Year.

Instructions
given to
D. Boytor.

<p>1836. 18 Sept.</p> <p>Pay for naval surgeons as agents.</p>	<p>I am prepared to accede to the rates of allowance and Remuneration to these Officers, as specified in your Instructions to them, vizt., full pay of Surgeon in the Navy from the date of my Confirmation of their appointments (which was on the 1st of July last) until the termination of the service for which they are employed, and for the further period occupied in their return to England.</p>
<p>Daily allowance whilst employed in selecting emigrants.</p>	<p>Allowance at the rate of 10s. 6d. a day, whilst employed in selecting Emigrants, provided that the time, during which this allowance is claimed, shall not in any case exceed six months from the date of the confirmation before named.</p>
<p>Allowance for passage money.</p>	<p>Passage allowance to the Colony at the rate of £80 and from the Colony to this Country at the rate of £100, together with a gratuity of £150, provided the agent shall have discharged the duty entrusted to him in a manner satisfactory to the Local Government.</p>
<p>Method for meeting expenditure.</p>	<p>It must be understood, however, that the whole of the Emoluments and expences herein specified, beyond the amount of the half pay to which these Gentlemen would be otherwise entitled, must be defrayed from the funds appropriated to the encouragement of Emigration to New South Wales.</p>
<p>Instructions to agents re expenditure.</p>	<p>I have directed the Agents to apply to me for any funds, which they may require in furtherance of their duties; and I have also instructed them to keep an account of all their disbursements in furtherance of the same object, and to produce the same to you on their arrival in the Colony, in order that you may be enabled to form a correct Estimate of the Expences incurred in engaging the services of these Gentlemen to collect and superintend the conveyance of Emigrants to the Colony.</p>
<p>Sum voted for immigration.</p>	<p>It appears from your Despatch No. 92 of the 18th of Sept., 1835, that a sum of £30,000 was voted for the encouragement of Emigration to New S. Wales by the Legislative Council during the present year, in addition to a large sum to meet the expences of the last year.</p>
<p>Expenditure incurred.</p>	<p>There has already been expended, during the present year, a sum of £6,499, so that there still remains a balance of £23,501, independent of what may be voted for the same service in 1837. Referring, however, to the concluding Paragraph of the Report of the Committee of the Legislative Council, in which they strongly urge the application of the whole of the Revenues arising from the sale of Crown Lands in the Colony to the promotion of Emigration, I am of opinion that the Funds so derived cannot be more properly or beneficially appropriated than in the advancement of this object; and I am therefore prepared to sanction</p>
<p>Appropriation of land revenues for immigration.</p>	

the appropriation of as large a portion of them as may be required for Emigration.

1836.
18 Sept.

With this view, I have to request that you will, at the end of every year, transmit to me a statement of the Revenue derived from the Sale of Crown Lands, and also of the disbursements made from the same source in furtherance of Emigration; and I would recommend that no portion of such revenue should, on any account, be devoted to other purposes, until this primary object has been sufficiently provided for.

Financial statements to be transmitted.

Having thus acquainted you with the measures, which I consider it desirable to adopt for the furtherance of Emign. to N. S. Wales, I have to request that you will take immediate steps for carrying the same into immediate effect.

I have, &c.,
GLENELG.

[Enclosure No. 1.]

UNDER SECRETARY STEPHEN TO MR. A. Y. SPEARMAN.

Sir, Downing Street, 19th August, 1836.

I am directed by Lord Glenelg to transmit to you, for the information of the Lords Commissioners of H.M.'s Treasury, the copy of a Despatch which has been received from Sir Richd. Bourke, enclosing a Report of a Committee of the Legislative Council of New South Wales on the subject of immigration into that Colony. I am also directed to transmit to you a copy of a letter, which His Lordship has received from the Chairman of the Committee of Emigration in London, enclosing a Resolution recently passed by that Committee on the subject of Female Emigration.

Transmission of papers re emigration.

There can be no doubt that the reasons, which induced the Earl of Ripon to recommend the appropriation of the Revenues arising from the Sale of Crown Lands in the Colonies of New South Wales and Van Diemen's Land to female Emigration, are entitled to the greatest weight. The evils arising from the disproportion of the Sexes, a disproportion continually increasing in consequence of the much larger number of male than female convicts annually sent to those Colonies, demand serious consideration on the part of the Government.

Reasons for appropriation of land revenues to female emigration.

The plan however, which has been pursued for several years, of promoting the emigration of single females separate from their parents and families, has done comparatively little to remedy the evils, which it was intended to counteract; while at the same time the evils, alleged to have attended that system, have produced a strong feeling of dissatisfaction in the minds of the Colonists. Lord Glenelg has reason to believe that the Committees, who have undertaken the selection of these females and who have superintended the arrangements for their transmisson to the Colonies, have discharged the duties entrusted to them with a zeal and attention from which great advantage has arisen; but his Lordship is of opinion that no care and vigilance can effectually guard against the recurrence of evils, which appear naturally to flow from the separation of females at an early age from their natural guardians

Practical results of female emigration.

1836.
18 Sept.

and protectors, and their exposure, notwithstanding the asylum provided for them by the Governor on their arrival, to more than ordinary temptations.

Lord Glenelg is therefore disposed to concur for the most part in the views both of the Committee of the Legislative Council of New South Wales and of Sir Rd. Bourke on this subject; and he is desirous of carrying into effect the substance of the recommendations which they have made. His Lordship proposes the discontinuance of the present system of Female Emigration and the substitution in its place of an arrangement by which married couples of a suitable age, with their children and relations, should receive out of the funds appropriated to Emigration to those Colonies such assistance as may enable them to proceed there.

Female
emigration to
be discontinued.

Bounties
proposed for
married
couples, etc.

The assistance, which his Lordship recommends with the concurrence of the Lords Commissioners of the Treasury to sanction to such Emigrants, is £30 to each married couple in aid of their expense of passage, with a further allowance of £5 for each of their children between 7 and 15 years, and of £15 for any unmarried daughter between 15 and 30 years. His Lordship further proposes that any unmarried female above the age of 18 and not exceeding 30 years, whom any such family may desire to take out with them, should receive assistance to the amount of £15, provided such female is under the immediate charge of a married couple with whom she is to reside on landing, and who will consider themselves bound to maintain and protect her until provided for.

Lord Glenelg further proposes that the Bounties in question shall be paid, as at present, on the arrival of the parties in the Colony, unless it may be found expedient to engage an entire vessel for the exclusive conveyance of a Body of such Emigrants; in which case a moiety should be advanced by the Treasury on their departure from this Country.

The respective amounts of Bounty before specified will not suffice to defray the entire cost of the passage of the Emigrants to whom it is granted; and, altho' his Lordship is fully alive to the advantage derived from requiring each person to advance a small portion of their passage, he is nevertheless anxious to guard against the necessary exclusion of otherwise eligible candidates for Emigration, on the ground of the want of means to provide the remaining expense of their passage; and he would therefore recommend that, in special cases of that nature, the whole of the passage of such parties may be provided for them either by way of Loan or Gift, as may appear to his Lordship to be most desirable.

Full passage
money to be
provided in
certain cases.

Agents for
selection of
emigrants.

With respect to the most efficient means of securing the selection of a proper class of Emigrants, Lord Glenelg fully approves of the appointment of Agents of the description referred to by Sir Rd. Bourke, to whom, either alone or in conjunction with the Committee of Emigration similar to those at present existing in London and Cork, the duty of selecting the Emigrants should be confided.

Naval surgeons
appointed as
agents.

Sir Richd. Bourke has already engaged and sent to this country for this service two Surgeons of the Royal Navy, who have heretofore been employed as Surgeon Superintendents of Convict Ships, and consequently have had opportunities of obtaining considerable knowledge of the Colony. As these Officers are intended not only to select the Emigrants, but also to accompany them on their passage, they will require to be replaced at intervals by others of a similar description; and thus will be maintained a succession of

experienced persons, sent from the Colony and acquainted with its existing wants. Being appointed by the Local Government, these persons will, after selecting Emigrants for whose eligibility they will be responsible, embark, superintend and finally conduct them to their destination.

1836.
18 Sept.

I am directed to enclose, for the information of the Lords Commissioners of the Treasury, a copy of the Instructions addressed by Sir R. Bourke to one of those Gentlemen, in which is contained the rate at which it is proposed that they should be remunerated for their services.

Instructions given to A. Osborne.

The expenses incurred in furtherance of this Service will be defrayed from the Revenue arising from the Sale of Crown Lands in those Colonies.

Expenditure from lands revenue.

The representations which have been received from the Lieutt. Governor of Van Diemen's Land on the same subject, leave Lord Glenelg no reason to doubt that a similar system would prove acceptable to that Colony and equally advantageous in its results. As, however, no agents have been sent from Van Diemen's Land for the purpose of selecting Emigrants, His Lordship proposes to appoint a temporary agent in this Country for the discharge of the corresponding duty, as it respects that Colony.

Similar system for emigrants to Tasmania.

Having thus stated, for the information of their Lordships, the measures proposed to be adopted for the promotion of the Emigration of a useful class of Settlers to the Colonies in question, Lord Glenelg has directed me to call your attention to the amount of funds available for this object.

It appears from Sir R. Bourke's Despatch, No. 92 of the 18th Sept., 1835, transmitted to you in my letter of the 30th of March last, that a sum of £30,000 was voted for this service by the Legislative Council of New South Wales during the present year. From that sum must be deducted £10,000, as the probable amount required for the two ships engaged under the existing Regulations, as stated in Mr. Hay's letter to Mr. Stewart of the 15th December last; and a balance will remain of £20,000 applicable to the encouragement of Emigration to New South Wales for the current year, independent of what may be voted for the same service in 1837. You will, however, observe, from the concluding paragraph of the Enclosed Report, that the Committee of the Legislative Council of New South Wales have strongly urged the application of the whole of the net proceeds of the Sale of Crown Lands in the Colony to the promotion of Emigration. Such appears to have been the intention of Lord Ripon, as expressed in Lord Howick's letter to Mr. Stewart of the 16th July, 1831, on the first establishment of the present system of the Sale of these Lands; and Lord Glenelg is of opinion that the funds derived from the Sale of Crown Lands in those Colonies cannot be more properly or beneficially appropriated than in the advancement of this object. His Lordship therefore recommends that as large a portion of these funds, as is required for Emigration, should be applied to that object; and that no portion of them should on any account be devoted to other purposes, before this primary object has been sufficiently provided for.

Funds available for purposes of emigration.

Appropriation of land revenues.

The plan now proposed will materially alter the position hitherto filled by Mr. J. D. Pinmock, the Emigration agent for New South Wales and Van Diemen's Land, and the Duties which have been assigned to that Gentleman. Lord Glenelg anticipates that the

Alteration in position of J. D. Pinmock.

1836.
18 Sept.

Proposed
increase of
emoluments.

effect will be to render that position less advantageous, and those duties far more burthensome and responsible than heretofore; and his Lordship expects that it will become his duty to recommend to the Lords Commissioners of the Treasury a considerable increase of Mr. Pinnock's emoluments. But for the present, and until an adequate experience of the effects in this respect as to the proposed change, Lord Glenelg would refrain from naming any specific amount.

Having thus placed before you the views of Lord Glenelg as to the measures which he considers it desirable to adopt for the furtherance of Emigration to the Australian Colonies, I am directed to request that you will lay the same before their Lordships, and that you will take an early opportunity of acquainting me, for his Lordship's information, with their sentiments regarding it.

I have, &c.,

JAS. STEPHEN.

[Enclosure No. 2.]

MR. A. Y. SPEARMAN TO UNDER SECRETARY STEPHEN.

Sir, Treasury Chambers, 2nd September, 1836.

The Lords Commissioners of His Majesty's Treasury having had under their consideration the documents forwarded to them in your letter of the 19th ulto., relating to Emigration to the Australian Penal Settlements, My Lords have commanded me to acquaint you, for the information of Lord Glenelg, that they concur with his Lordship in opinion that it will be advisable to discontinue the existing arrangements for the transmission of Female Emigrants, after the existing engagement shall have been fulfilled.

My Lords are also prepared to concur in sanctioning the adoption of the new arrangements detailed in your Letter, and in the accompanying Report from Sir R. Bourke and Instructions to Dr. Boyter, which relate to the rates of allowance it is proposed to make to Emigrants, to the cases in which it should be granted, and the employment of the two Agents already deputed by the Governor of New South Wales to select Emigrants and accompany them to the Colony.

My Lords are likewise prepared to assent, in these instances, to the rates of allowances and remuneration to the agents specified in the Instructions, according to which each agent is to receive;

1st. Full pay of a Surgeon in the Navy from the date of the Secretary of State's confirmation of the appointment until the termination of the service for which the agent is employed, and for the further period occupied in his return to England.

2nd. Allowance at the rate of 10s. 6d. a day, while employed in selecting Emigrants, provided that the time, during which this allowance is claimed, shall not in any case exceed six months from the date of the confirmation before mentioned.

3rd. Passage allowance to the Colony at the rate of £80, in addition to accommodation on board the vessel engaged to convey the Emigrants; and passage allowance to enable the agent to return to England at the rate of £100.

4th. A gratuity of £150.

Adverting however to the object of these appointments, and to the manner in which they are to be made, my Lords must observe that it would appear necessary, in the first place, that the Title

Approval of
discontinuance
of female
emigration;

and of
proposed new
system.

Allowances
authorised for
agents for
emigration.

to these allowances should be contingent upon the Agent carrying out some specified number of approved Emigrants; and it would also seem expedient to limit the continuance of the Surgeon's full pay in the same manner as the extra allowance to a period of six months prior to the date of Embarkation of the Emigrants and to some given period after the agent's arrival in the Colony.

1836.
18 Sept.
Contingent
limitation of
allowances.

My Lords at the same time consider that it would be advisable to consider the employment of the present agents as experimental only; and, looking to the heavy charges for agency that will attend the proposed mode of proceeding in the event of several shipments taking place in the course of the year, they cannot but suggest for Lord Glenelg's consideration whether the selection by each of the Local Governments now in question of some person sufficiently conversant with the state of the Settlements and the wants of the inhabitants in regard to peculiar descriptions of Artificers or Laborers, to be employed as a Resident agent here, might not be a preferable arrangement, both in point of expense and as affording opportunity for the party selected to acquire much valuable experience as to the mode of obtaining the classes of Emigrants best calculated to supply those wants.

Test
employment
of agents.

Suggested
appointment
of resident
agent.

Altho' my Lords are not aware of any engagement or understanding that the whole proceeds of the Sales of Crown Lands in the Australian Colonies should be devoted to the furtherance of Emigration, they do not dissent from Lord Glenelg's recommendation that a requisite portion of those funds should be appropriated for this object, and that it should be considered as the primary charge upon them.

Appropriation
of land
revenues.

My Lords also concur in Lord Glenelg's suggestion that the consideration of the alteration, it may be necessary to make in the Emoluments of the Emigration Agent for the Australian Colonies attached to his Lordship's Department, should be deferred until some experience has been had of the effect of the proposed new arrangements, as regards the duties and responsibility of that Office.

Increase of
emoluments for
J. D. Pinnoek
to be deferred.

I am, &c.,

A. Y. SPEARMAN.

[Enclosure No. 3.]

UNDER SECRETARY STEPHEN TO DR. OSBORNE.

Sir,

Downing Street, 6 Sept., 1836.

With reference to my letter to you of the 27th of July last, I am now directed by Lord Glenelg to acquaint you that it has been determined to supersede the system of exclusive female Emigration at present in force, and to extend the Government assistance to the class of Emigrants recommended by the Governor of New South Wales, vizt., young married mechanics and Agricultural laborers, with their wives and children, together with any unmarried females between the ages of 15 and 30 years, who may emigrate in company with a married couple, and who will remain under their protection on their arrival in the Colony until married or otherwise provided for.

Instructions
to A. Osborne
as agent for
selection of
emigrants.

In consequence of the recommendation recently received from the Emigration Committee at Cork, Lord Glenelg has determined to apply this system partially in the case of a ship, which has been engaged under the existing Regulations for the conveyance of Female Emigrants to Sydney. I enclose a copy of a letter on this

1836.
18 Sept.

Instructions
to A. Osborne
as agent for
selection of
emigrants.

subject, which has been addressed by Lord Glenelg's direction to that Committee, and which will explain to you the measures intended to be adopted. You will observe that, with a view to the selection of a suitable class of Emigrants, Lord Glenelg has thought it expedient to place you in communication with the Committee.

I am therefore desired by his Lordship to direct that you will proceed without loss of time to Cork, and that you will put yourself in communication with the Emigration Committee at that place, for the purpose of arranging with them an effective plan for carrying into execution the Instructions furnished to you by the Governor of New South Wales, as far as they are applicable to this case.

The "Lady Macnaghten," a Ship of 558 Tons Register, will be ready to embark the Emigrants at Cork on the 27th of October next. She will be properly equipped and provisioned for this service; and a strict enquiry will be instituted into the character of her Officers, before they are allowed to proceed in her. An experienced Surgeon-Superintendent will also be appointed to her.

The price of Conveyance for a married Couple will be £34; for children between 1 and 7 years age £5; for those between 7 and 15, £10; and for all females above 15 years of age £15; So that families will be conveyed on the payment of £4; the difference between the cost of their passage and the Government Bounty allowed to each married couple of £30.

You will from time to time acquaint me, for his Lordship's information, with your proceedings; and you will keep a Journal of the same, in order that it may be transmitted to Sir Richd. Bourke, together with the Testimonials, etca., of the parties whom you may approve of as fit candidates for the Government Bounty, in the vessel by which they are themselves conveyed.

I have, &c.,
JAS. STEPHEN.

[Enclosure No. 4.]

UNDER SECRETARY STEPHEN TO MR. WILLIAM CRAWFORD, CHAIRMAN
OF THE EMIGRATION COMMITTEE, CORK.

Sir, Downing Street, 6 September, 1836.

I am directed by Lord Glenelg to acknowledge the receipt of your Letter of the 30th of July, requesting that the Emigration Committee at Cork might be made acquainted with the names of the four females, who were reported to have been ineligible to have received the Government Bounty in aid of their means of Emigrating; and I am directed by his Lordship to express to you his regret at his inability to comply with their request, such information not being in his Lordship's possession.

With reference to the suggestion of the Committee that a most valuable class of mechanics and laborers could be introduced into the Australian Colonies, if the Bounty of Government were extended to the younger branches of such families; I am now directed by Lord Glenelg to acquaint you that, having given to this subject his most serious consideration, he has come to the determination that it is not advisable to adhere to the present system of exclusive female Emigration; and that the Funds appropriated to this object might be more usefully applied in promoting the Emigration to the Australian Colonies of respectable families of a proper class.

Instructions
to committee
at Cork re
selection of
emigrants.

The following are the Regulations, under which it is proposed that assistance shall for the future be afforded, vizt. :—

- 1st. A Bounty of £30 will be allowed for every married couple.
- 2nd. A Bounty of £5 will be allowed for each of their children between the ages of two and seven years.
- 3rd. A Bounty of £10 for each child between the ages of seven and fifteen years.

4th. A Bounty of £15 for each unmarried Daughter between the age of fifteen and thirty years; and the same Bounty to any young women between the ages of eighteen and thirty years, whom a family about to Emigrate may desire to take out with them. No such female however is to receive any assistance, who is not under the immediate charge of a married couple with whom she is to reside on landing as part of their family; and who will consider themselves bound to maintain and protect her until married, or otherwise provided for.

Lord Glenelg desires me therefore to request that the Committee will from henceforth refrain from engaging any young women to emigrate, unless of that class, and under the circumstances which I have just mentioned. I need not advert to the importance of a careful selection of the females who are to receive this assistance.

Dr. Osborne of the Royal Navy has been recently sent to this Country by the Governor of New South Wales for the purpose of engaging a number of mechanics of the class most required, to be sent to that Colony with their wives and families; and as he is well acquainted with the necessary qualifications for such Emigrants, he will be instructed to proceed immediately to Cork, in order to afford to you his Co-operation in the Selection, etc., of proper Candidates for the Government Bounty.

I transmit to you an extract of the letter which has been addressed by Lord Glenelg's direction to that officer.

I have, &c.

JAS. STEPHEN.

[Enclosure No. 5.]

UNDER SECRETARY STEPHEN TO DR. BOYTER.

Sir,

Downing Street, 10th Sept., 1836.

With reference to my letter to you of the 21st of last July, acquainting you that you might proceed to Dundee, and that, so soon as His Majesty's Govt. had decided on the nature of the arrangements which they might consider most desirable to adopt for the furtherance of Emigration to the Australian Colonies, you should be immediately apprized of their nature; I am now directed by Lord Glenelg to transmit to you the following Instructions for your guidance in carrying into execution the duties confided to you by the Governor of New South Wales.

In the first place, it has been determined to supersede the system of exclusive female Emigration at present in force, and to extend the Government assistance to the class of Emigrants recommended by Sir Richard Bourke, viz., young married Mechanics and Agricultural laborers with their wives and children, together with any unmarried females between the ages of 15 and 30 years, who may emigrate in company with a married couple, and who will remain under their protection on their arrival in the Colony, until otherwise provided for.

1836.
18 Sept.

Instructions
to committee
at Cork re
selection of
emigrants.

Instructions
to D. Boyter
as agent for
selection of
emigrants.

1836.
18 Sept.

Instructions
to D. Boyter
as agent for
selection of
emigrants.

The following are the regulations under which it is proposed that pecuniary assistance shall for the present be afforded:—

- 1st. A Bounty of £30 will be allowed for every married couple.
- 2nd. A Bounty of £5 will be allowed for each of their children between the ages of two and seven years.
- 3rd. A Bounty of £10 for each child between seven and fifteen years.

4th. A Bounty of £15 for each unmarried Daughter between the age of fifteen and thirty years, and a similar bounty for any young women between the age of eighteen and thirty years, whom a family about to emigrate may desire to take out with them.

No such female however is to receive any assistance who is not under the immediate charge of a married couple, with whom she is to reside on landing as part of their family, and who will consider themselves bound to maintain and protect her until married or otherwise provided for. The above scale of Bounties will, according to the rate of passage charged from London, very nearly if not entirely defray the cost of conveying the Emigrants, whom you may select, to New South Wales.

I am therefore desired by Lord Glenelg to direct that you will lose no time in carrying into execution the Instructions furnished to you by the Governor of New South Wales; and that, when you may be sufficiently enabled to form a correct opinion as to the probable period of your departure, you will, in obedience to the wishes of Sir Richd. Bourke, take the proper steps for engaging a suitable vessel for the conveyance of yourself and your Emigrants. You will however acquaint me, for his Lordship's information, with the measures which you may adopt for that purpose, and you will not finally engage a vessel for the service in question until you shall have received permission from the Secretary of State.

You will be remunerated for your exertions in executing the service entrusted to you, according to the scale of Emoluments enumerated in the Instructions furnished to you by Sir Rd. Bourke.

You will apply to the Secretary of State for any funds which you may require for this service; and, should his Lordship approve of your Disbursements, he will instruct Mr. Barnard to place them at your disposal. I am desired however by Lord Glenelg to direct that you will keep an account, together with the vouchers, of any expenses which you may incur whilst engaged in this service; and also of the respective sums which you may receive in advance; and that you will produce the same to Sir Richard Bourke on your arrival in the Colony, in order that His Excellency may be enabled to form a correct estimate of the expenses incurred in employing your services as an agent to select Emigrants for that Colony.

Having thus placed before you the views of Lord Glenelg on this subject, it only remains for me to request that you will from time to time acquaint me, for his Lordship's information, with your proceedings, and that you will keep a journal of the same, in order that it may be produced by you to Sir Richd. Bourke, together with the testimonials, etc., of the parties whom you may select as fit Candidates for the Government Bounty, on their arrival in the Colony.

I have, &c.,

JAS. STEPHEN.

SIR RICHARD BOURKE TO LORD GLENELG.

1836.
18 Sept.

(Despatch No. 104, per ship William Harris; acknowledged by
lord Glenelg, 30th April, 1837.)

My Lord, Government House, 18 Septr., 1836.

I have the honor to forward a Memorial from the Members of the New Castle Mechanics' Institute Library and Museum, praying your Lordship's sanction to their receiving from the Colonial Treasury similar assistance to that which has been afforded, under the authority of Lord Stanley's Despatch of 14 May, 1834, No. 77, to an Institution of the same nature formed in Sydney.

Transmission of
memorial from
Newcastle
mechanics'
institute.

With your Lordship's concurrence, I shall be very happy to propose to the Legislature of this Colony the appropriation of such a sum as may appear required for encouraging, without superseding, the private efforts of the Society whose Memorial is forwarded.

Proposed vote
by council.

I have, &c.,
RICHD. BOURKE.

[Enclosure.]

[A copy of this memorial is not available.]

LORD GLENELG TO SIR RICHARD BOURKE.

(Despatch No. 212, per ship John; acknowledged by
Sir Richard Bourke, 2nd July, 1837.)

Sir, Downing Street, 20 September, 1836.

20 Sept.

I have the honor to transmit to you the enclosed Judiciary Act of the French Courts, which has been forwarded to me by the Consul General for France, for the purpose of being delivered to Mr. and Mrs. Piake, residents at Port Jackson; and I have to request that you will cause that document to be duly delivered to them.

Transmission
of French
judiciary act.

I am, &c.,
GLENELG.

SIR RICHARD BOURKE TO LORD GLENELG.

(Despatch No. 105, per ship William Harris; acknowledged by
lord Glenelg, 29th April, 1837.)

My Lord, Government House, 20 Septr., 1836.

At the request of the Directors of the Australian Gas Light Co.,* I am induced to recommend to favorable consideration an application which I understand they have instructed their agent to make to your Lordship in London for permission to send out Pipes and other Materials in Convict Ships free of freight. I am the more readily disposed to solicit such an encouragement for this Company, as its formation may tend to promote

Request by
gas company
for free
shipment of
pipes, etc., in
convict ships.

* Note 151.

1836.
20 Sept.

Necessity for local bodies.

Recommendation in favor of gas company.

habits of co-operation in measures of public improvement which are at present much wanting here, the Colonists having been hitherto accustomed to lean upon the Government for everything. I lately endeavored in vain to render acceptable to the Inhabitants of Sydney a Plan for the management of some of their local affairs by Commissioners to be appointed by themselves. The formation of local Bodies for such purposes will soon become essential in various parts of the Colony for disembarassing the Government of details interfering seriously with its more comprehensive and peculiar duties. It is as introductory and conducive to such arrangements that I more particularly would recommend the Australian Gas Light Company to your Lordship's favor.

I have, &c.,

RICHD. BOURKE.

LORD GLENELG TO SIR RICHARD BOURKE.

(Despatch No. 213, per ship John.)

21 Sept.

Despatches acknowledged.

Explanations accepted from T. L. Mitchell.

Duties of surveyor-general's department.

General survey and division of territory.

Sir,

Downing Street, 21st Sept., 1836.

I have had under my consideration your Dispatches of the Dates and Numbers noted in the Margin,* respecting the state of the Surveyor General's Department, and the measures which you consider it advisable to adopt for the more efficient performance of the various duties attached to it.

Before I proceed to notice the suggestions which you have offered on this subject, I think it right to state my opinion, that the explanations† are perfectly satisfactory, which Major Mitchell has afforded in answer to the remarks† of Lord Stanley, as to the apparent disproportion between the Work performed by his Department and the means supplied for its execution.

The duties, which have hitherto been entrusted to the Surveyor General's Department, consisted of: 1st. the Survey and Division of the Territory into Counties, Hundreds and Parishes; 2nd. the Survey and measurement of the Grants to Settlers; 3rd. the formation of Roads and erection of Bridges; and 4th. the Superintendence of the Public Buildings throughout the Colony.

With respect to the general Survey and Division of the Territory, I conceive that that is an operation, which can only be gradually accomplished according as the Settlement of the Country becomes extended, and as the Revenues of the Colony will enable the Government (after providing for its more immediate wants) to procure the services of a sufficient number of competent Officers for the purpose. For the present, the efforts

* *Marginal note.*—No. 104, 10th Oct., 1834; No. 1, 5th Jany., 1835; No. 2, 6th Jany., 1835.

† Note 152.

of the Survey Department in furtherance of that object must be confined to the accurate Survey and Division of the Country comprized within the Districts open for location to the Settlers.

1836.
21 Sept.

I entirely concur with you in opinion that no Land should be sold until it has been correctly surveyed and measured, so that the Settler may receive the Title Deed upon his completing the purchase.

Necessity for survey prior to sale of land.

The formation of Roads and Bridges is of the first importance in all new Countries, in order to the development of their resources, and their occupation by Settlers. To this branch of the Surveyor General's Department in New South Wales, every attention should be paid; and with a view to lessen the heavy demands which are annually made upon the Public Treasury for Works of this nature, I would suggest for your consideration the practicability of inducing the Inhabitants of Districts, in which Roads or Bridges may hereafter be constructed, to contribute from their own Funds a portion of the expence.

Formation of roads and bridges.

Proposed local contributions towards expense.

Your recommendation, that the Surveyor General's Department should be relieved from the duty of superintending the construction and repair of Public Buildings, has been partly adopted by sending out to the Colony an Establishment of Ordnance Officers to take charge of the Military and Convict Buildings. As the services of those officers will be equally available for any Civil Works, which cannot be performed by Contract, I do not see the necessity of creating a separate Department for that duty. Any Colonial Officers, therefore, who may be employed in this manner, will continue as at present to form a part of the Surveyor General's Department.

Construction and repair of public buildings.

I see no objection to your proposal to issue to the Deputy Surveyor General a Forage Allowance for a Horse, whenever that officer is employed on services, which absolutely require that he should make use of one.

Forage allowance for S. A. Perry.

In consequence of the favorable testimony, which has uniformly been borne to the merits of Mr. Assistant Surveyor Thompson, I have much pleasure in confirming your nomination of him to be Principal Draftsman with a Salary of £400 per Annum.

Appointment for J. Thompson confirmed.

The arrangements, which you have proposed for strengthening the branch of the Department employed in the construction of the Roads and Bridges, and for affording to the Town Surveyor some assistance in the performance of his duties, appears to me free from objection. The proper control and discipline of the Convicts worked on the Roads, etca., is an object of so much importance, both for the purpose of rendering the punishment

Reforms in branch of roads and bridges.

1836.
21 Sept.

efficacious, and for protecting the Colonists from their depredations, that I confidently rely on your continuing your endeavours to improve, as far as is practicable and consistent with due economy, the machinery for the superintendence of the Prisoners and the efficient direction of their labor.

Necessity for
economy in
department.

With respect to the other promotions, reported in your Dispatch, I think it necessary only to observe that it was the intention of my Predecessors that the fixed Establishment of the Surveyor General's Department should be limited to the smallest possible number of efficient officers; and to impress upon you the necessity of availing yourself of every opportunity of curtailing the heavy expence of that Department.

Regret at
conduct of
T. L. Mitchell.

I extremely regret that you should have had occasion to notice unfavorably the conduct of Major Mitchell. I entirely concur with you in opinion that the Governor of New South Wales should exercise a substantial control over the proceedings of the important Department entrusted to his care. While I acknowledge the zeal and ability which Major Mitchell has displayed in the discharge of his duties, I cannot but regret that he should still show that he entertains so erroneous an idea of the true position in which he stands with regard to the Governor, a circumstance which cannot but have the effect of injuring his utility as a Public Officer. You will communicate this opinion to Major Mitchell, and convey to him, at the same time, the expression of my hope that I shall not again have occasion to refer to this subject.

Regulations
for assistants
in survey
department.

As it is very desirable that the dispatch of business in Major Mitchell's Department should be facilitated as much as possible, I would suggest for your consideration the propriety of your framing, in concert with that officer, a Code of Regulations for the guidance of his Assistants in the several branches into which his Department is subdivided, in order to avoid the delay of frequent references to Head Quarters for Instructions. In distributing the services of his Assistants, Major Mitchell will, of course, be governed by their comparative fitness for the branch in which they are employed.

I have, &c.,

GLENELG.

LORD GLENELG TO SIR RICHARD BOURKE.
(Despatch No. 214, per ship John.)

22 Sept.

Sir,

Downing Street, 22d Sept., 1836.

Despatch
acknowledged.

I have received your Dispatch No. 22 of the 22nd of February last, enclosing a Memorial from Mr. Thomas Brennand praying for a Grant of Land under the late Regulations. As this Memorial has been transmitted by you without any comment on

the particular allegations which it contains, I must assume that you assent to their correctness. The facts then which I gather from the Memorial are as follows:—

1836.
22 Sept.

It appears that Mr. Brennand emigrated from this Country in the latter part of the year 1829, having received the ordinary printed Letter signed by the Under Secretary of State enclosing the Regulations under which Land was then granted in the Australian Colonies. He arrived in Van Diemen's Land in May, 1830, and, as he had converted the whole of his Capital into Merchandize, consisting chiefly of Books, he was not then in a condition to claim a Grant of Land. He states that, upon his representing to the Lieutt. Governor of that Colony "that he proposed, for the sake of avoiding Quit Rents and other expences, to defer the selection of his Land until he should have sold off his investment, his Excellency was pleased to express his approbation of such an arrangement and to say that he (Memorialist) would be entitled to a Maximum Grant."

Statement
re claims of
T. Brennand
to land grant.

As it was absolutely necessary for him to render his capital available for the cultivation of his Land before he could receive a Grant, the Lieutt. Governor of course could not withhold his approbation of such an arrangement, and, if the Land Regulations had remained unchanged at the period when Mr. Brennand had effected the sale of his Stock, he would naturally have been entitled to a Grant proportioned to his Capital. Shortly after this Mr. Brennand appears to have left the Colony of Van Diemen's Land and to have removed to New South Wales, where still he carried on the Trade of a Bookseller; and, by the time that he had accomplished the sale of his Stock, and was prepared to select his Grant, the new Regulations had been put in force.

Under all the circumstances, it appears to me that this is a case coming within the exception quoted by the Memorialist from Lord Ripon's Dispatch of the 9th of January, 1831, provided he entitled himself, within a reasonable time, to the benefit of the Regulations under which he emigrated. His Memorial, however, was not presented until four years after the new Regulations had been promulgated in the Colony, and it would be most inconvenient to admit the claims of parties who, even had the old Regulations remained in force, could not have availed themselves of them for years.

Merits
of claims.

Such cases would shew rather a speculation on the part of the Emigrant, attended necessarily with uncertainty and risk, than a clear right to Land founded on Capital taken from this Country to the Colony. If that Capital was not in a shape in which it could be rendered marketable, for the purpose contemplated, for years, the Immigrant might fairly be considered as taking the

1836.
22 Sept.

Conditional
approval of
land grant for
T. Brennand.

risk of intermediate change in the Land Regulations. If the conversion of Capital took place in this instance within a reasonable time after the arrival of the Immigrant, it appears to me that, assuming his other statements to be correct, and provided also that he can account for the delay in his application, he is entitled to a compliance with the prayer of his Memorial. In this, however, as in other cases, the comparative value of Land must be taken into account, which has materially increased since the promulgation of the new Regulations. In seeking an exemption from those Regulations, a party cannot complain if the increased value in Land, which they have produced, is considered in the quantity allotted to him.

I have, &c.,
GLENELG.

SIR RICHARD BOURKE TO LORD GLENELG.

(Despatch No. 107, per ship William Harris; acknowledged by lord Glenelg, 12th April, 1837.)

1 Oct.

Transmission
of memorial
from J. Bell.

My Lord,

Government House, 1 Octr., 1836.

I have the honor to forward for your Lordship's consideration a Memorial which Mr. John Bell of Van Diemen's Land has addressed to me on the subject of a grant of Land in this Colony, which he considers to have been improperly taken from him by my Predecessor. Not being able to comply with his request for compensation, I follow the alternative he has solicited of submitting it for your Lordship's Command. The accompanying Report of the Colonial Secretary will explain the reasons of my refusal, which will probably have equal weight with your Lordship.

I have, &c.,

RICHD. BOURKE.

[Enclosure.]

THE MEMORIAL OF JOHN BELL OF HOBART TOWN, VAN DIEMEN'S
LAND,

To His Excellency Sir Richard Bourke, Governor of New South
Wales, etc., etc., etc.

Respectfully Sheweth,

That your Memorialist, in the year 1825, commanded a Merchant Vessel called the *Minerva*, then employed by the Navy Board to convey Convicts to New South Wales; That your Memorialist had commanded her in the same service since the year 1817, and performed many Voyages to Sydney and on to India.

That His Excellency Sir Thomas Brisbane in 1825 was graciously pleased to order your Memorialist a Grant of 1,200 acres of land. That, prior to your Memorialist's departure to India and England, your Memorialist purchased Cattle to Stock the land at very high prices, and your Memorialist left the land Order with Captain F. Allman to select the land and act for your Memorialist during his absence.

Memorial of
J. Bell praying
compensation
for loss of land.

That your Memorialist, when in England, received advices from Captain Allman he had selected the land and received the Cattle to stock it. That your Memorialist purchased a vessel and proceeded with all diligence to these Colonies and brought with him Overseer and men to take charge of his land and Stock.

That, on his passage, your Memorialist encountered such a severe Storm and suffered so much damage that, with the greatest exertion only, the Vessel was saved with the loss of three men washed overboard, all the Boats washed away, part of the poop and every article on the deck, with all the Bulwarks.

That your Memorialist eventually arrived at Hobart Town in March, 1827, a complete wreck in his Vessel, the Caledonia.

That upon survey it was found she could not safely proceed on her extended Voyage, until she had undergone very extensive and expensive repairs.

That your Memorialist thereon was compelled to land most of his own goods and send on to Sydney the goods for that Port, as also many of his own at a great expence; that the repairs of your Memorialist's Vessel occupied more than four months, and other matters detained your Memorialist at Hobart Town connected with his vessel more than seven months. That, before your Memorialist had completed his business, he was informed by Captain Allman his land had been given by the local Government to Captain Wright, who had taken forcible possession by breaking down his Stock yards and driving off the land your Memorialist's Stock.

That, in January, 1828, your Memorialist proceeded to Sydney, and, in an interview with His Excellency General Darling, he was referred to Mr. Alexander MacLeay, the Colonial Secretary, who informed your Memorialist there were many similar cases "undecided, and that, when the Government had come to a determination on them, mine would be accordingly decided." That, in consequence of the land being forcibly taken away from your Memorialist, your Memorialist has suffered a pecuniary loss exceeding one thousand pounds, his cattle being turned wild in the Colony, independent of his loss of land. That your Memorialist respectfully prays, should it not lay within your Excellency's Instructions to afford him relief, that your Excellency will be graciously pleased to transmit your Memorialist's prayer for the consideration of the Right Honorable the Secretary of State for the Colonies. But your Memorialist indulges the hope your Excellency will graciously take his case into consideration, and grant him compensation for his loss sustained by reason of his land being taken from him, in about the space of two years without affording him an opportunity of fulfilling the Government regulations, and your Memorialist as in duty bound will ever pray.

[*Unsigned.*]

Hobart Town, 20th July, 1836.

NOTE BY COLONIAL SECRETARY.

MR. JOHN BELL, of Van Diemen's land, requests compensation for losses incurred in consequence of land, which was promised to him by Sir Thomas Brisbane, and of which his Agent was allowed to take possession, having been afterwards given to Captain Wright (now of Parramatta) and his cattle, etc., suddenly ordered off.

The original order for this land, dated 15 January, 1825, was for 1,200 acres "to be reserved in order to be converted into a Grant on Mr. Bell's commencing to reside upon it."

1836.
1 Oct.

Memorial of
J. Bell praying
compensation
for loss of land.

Report by
A. Macleay
on claims of
J. Bell.

1836.
1 Oct.

Report by
A. Macleay
on claims of
J. Bell.

Mr. Bell having remained in Van Diemen's land, and Captn. Wright having applied for this land under his order for a Grant in March, 1828, possession was confirmed to Captn. Wright, and Capt. Allman, Mr. Bell's agent, was informed that that Gentleman had not fulfilled the original conditions.

In February, 1828, Mr. Bell was in New South Wales and made an application similar to the present, both in person and in writing, and was informed General Darling would be very glad to consider his application, whenever he should become resident in the Colony, But that it was not consistent with the existing regulations to give land to absentees.

From the foregoing Statement, it is evident that Mr. Bell has lost the land through nonfulfilment of the original conditions, and, as he has not to this day complied with them by becoming a resident in New South Wales, his claim appears to be untenable. Nor am I aware of any instance, as stated by him, of a person retaining land *obtained under such conditions*, without fulfilment of those conditions. But it is possible that some such may exist, for in all probability this land would not have been resumed or Mr. Bell's absence noticed, if Captn. Wright had not applied for it; and it is certain that land is held by other absentees upon whom the condition of residence was not specifically imposed or indeed imposed at all, either through oversight or because there was no reason apparent for enforcing it at the time of their application, as there was in the case of Mr. Bell, the Master of a Vessel then sailing out of the Port.

SIR RICHARD BOURKE TO LORD GLENELG.
(Despatch No. 108, per ship William Harris.)

5 Oct.

My Lord,

Government House, 5 Octr., 1836.

Transmission of
notices issued
under acts of
council.

Referring to the observations contained in my Despatch of the 14th ulto. upon the acts passed in the last Session of the Legislative Council with respect to the occupation of Crown Lands and the building of Churches and Maintenance of Clergymen, I have the honor to transmit, for your Lordship's further information, the Govt. Gazette of this day, which contains notices* upon each of these subjects, shewing the Regulations under which I propose to carry into effect the objects of the local Legislature.

I have, &c.,

RICHD. BOURKE.

LORD GLENELG TO SIR RICHARD BOURKE.
(Despatch No. 215, per ship Norfolk.)

6 Oct.

Sir,

Downing Street, 6th October, 1836.

Despatch
acknowledged.

I have received your Dispatch No. 78 of the 11th of August last year, relative to the charges incurred for the Buildings occupied by the "Benevolent Asylum" at Sydney; and, having conferred on the subject with the Lords Commissioners of the Treasury, I have now the honor to transmit to you a copy

* Note 153.

of a Letter from the Secretary to that Board, expressing their Lordships' concurrence in the opinion which I had expressed that the charge for the Benevolent Asylum should for the present continue to be defrayed from the Military Chest, and that the proposed addition to the Building should be proceeded with.

I am, &c.,

GLENELG.

1836.
6 Oct.

Expenditure on benevolent asylum to be charged to military chest.

[Enclosure.]

MR. F. BARING TO UNDER SECRETARY STEPHEN.

Sir, Treasury Chambers, 3d October, 1836.

With reference to your letter of the 3d March last, respecting the Charges for the Buildings occupied by the "Benevolent Asylum" at N. S. Wales, I am commanded by the Lords Commrs. of H.M. Treasury to request you will state to Lord Glenelg that, referring to the arrangements that have been made for the transfer of various charges from the Military Chest to the Colonial Fund at N. S. Wales, my Lords concur in opinion with Lord Glenelg that the charge for the Benevolent Asylum should for the present continue to be defrayed from the Military Chest, and that the proposed addition to the Building should be sanctioned.

I am, &c.,

F. BARING.

Approval of proposals re benevolent asylum.

SIR RICHARD BOURKE TO LORD GLENELG.

(Despatch marked "Separate and Confidential," per ship William Harris.)

My Lord, Govt. House, Sydney, 7th October, 1836.

7 Oct.

Referring to my Despatch of the 8 Augt. last, No. 86, and that of the same date marked Sep. and Confid., I have the honor to lay before Your Lordship the annexed Documents as illustrating the description of opposition, which is made by the Bishop of Australia and the Clergy under his influence to the Establishment in this Colony of National Schools on Lord Stanley's Plan. The depositions speak for themselves, and the only point on which I need make any observation is the disingenuous attempt to make it appear that the clause of the Petition reflecting on the Council was expunged before it was offered to the Convicts for signature. This erasure, as I have ascertained from minute enquiry, was not effected until after the Petition had been brought to the Court House. This being the case, the evidence of the Convicts, which the Bishop of Australia has endeavoured to depreciate, will bear comparison with that of Mr. Rusden. His discourse on the occasion, referred to, has been represented to me as of a very peculiar kind. He held in his hand the circular Letter of the Colonial Secretary of this Government, explanatory of the system on which the National Schools were to be established, intimating, if I am to believe common Report,

Evidence re opposition of bishop and clergy to national schools.

Statements by Revd. G. K. Rusden in opposition to national schools.

1836.

7 Oct.

in a declamatory and threatening manner, that the misconduct of this Government would be brought under the review of H.M.'s Ministers.

Opposition
of clergy and
its effects.

The Revd. Mr. Rusden's indiscretion has led to the Exposure, which these Papers develop; but he is not the only Divine of the Church of England, who, under the Bishop's control, inveighs from the Pulpit against the Establishment of the proposed Schools, misrepresenting their character and aim, and connecting them with the Church of Rome in a strain of declamation, which, however deficient in argument and unfounded in fact, serves the mischievous purpose of keeping up excitement and creating anger and suspicion in the minds of Persons of different religious Creeds, who have hitherto lived in perfect harmony.

Attack on
national schools
by bishop in
pulpit.

The Bishop himself, when preaching some short time ago in the Church of Parramatta which I usually attend, took occasion to attack the Schools as subversive of Protestantism. It happened that, being indisposed, I felt myself obliged to quit the Church before the Sermon commenced, and thus accidentally escaped being present at a discourse, which I understand betrayed more zeal than discretion.

Prospects of
success of
national
schools.

Notwithstanding this opposition, I have little doubt that the good sense of the proposed measure and its fitness for the circumstances of the Colony will ultimately ensure its complete success, more especially if the topic comes under discussion in an open Assembly representing the People of the Colony. Since I had the honor of addressing Your Lordship on this subject, another district, that of Yass, has, at a public meeting of the Inhabitants, expressed a desire for the Establishment of Schools on Lord Stanley's Plan. I propose shortly to introduce one or more into each of the Districts which have applied for them.

I have, &c.,

RICHD. BOURKE.

[Enclosure No. 1.]

MR. P. L. CAMPBELL TO COLONIAL SECRETARY.

Sir,

Police Office, Maitland, 3rd September, 1836.

Report *re*
method adopted
by Revd.
G. K. Rusden
for obtaining
signatures to
petition.

I have to acknowledge the receipt of your letter of the 27 inst., calling upon me by the Governor's desire to ascertain the circumstances under which certain Prisoners of the Crown were induced on Sunday the 14th ultimo, after a sermon preached by the Assistant Chaplain of Maitland, to affix their names to a Petition upon the subject of general education, which Petition embodied a reflection on the Legislative Council as at present Constituted.

In reply, I have to state for His Excellency's information that I was not present in the Church on the Sunday in question, but it was represented to me on that day that Mr. Rusden's Sermon had adverted to the late measures of Government, as regards general Education, in terms tending to inflame the Public Mind, and I

understood that the Congregation had been invited at the conclusion of the service to sign one of the Petitions lately presented to the Legislative Council.

1836.
7 Oct.

On the Tuesday following at the close of the Petty Sessions, Mr. Robert Lethbridge, a Magistrate, produced a Petition for general signature, when Mr. Houston Mitchell, another Magistrate, observed the names of several of his assigned servants amongst the subscribers, from which circumstance I was induced to look at the Document, and am thereby enabled to hand you a Copy of it.

Report *re*
method adopted
by Revd.
G. K. Rusden
for obtaining
signatures to
petition.

I moreover expressed extreme disapprobation at this improper use of Convicts' Names; but, on being assured that they were blameless, and that their names should be erased, I thought it prudent to avoid any further notice of a matter, which might lead to a Collision with the Assistant Chaplain of my District.

In order to prosecute the present Inquiry, I have waited upon Mr. Houston Mitchell, and having requested that Gentleman to afford me the names of those of his Prisoners, who were at Church on the 14th ultimo, and having examined them separately in their Master's presence, I have now the honor to hand you their Individual Statements.

John Jones* States, on Sunday, the 14th ultimo, he was at Church with some of his fellow Prisoners; that the Parson appeared very angry and told them the Catholics were getting the upper hand, and that the Bible was going to be taken away from them, and that none of them, who were Protestants, were to go away after Church until they had written their names down. Jones further states that, after the service, Goldingham, the Clerk, brought a piece of paper, a pen and Ink into the Church, and the Parson went to the door, and asked the people as they went out to stop and put down their names. Jones and his fellow Prisoners were on the Steps going away, when the Parson said "Come and sign this my Men; it will not do you any harm, but will get you schools, towards which I myself have given five pounds." Jones then wrote his own name as well as those of some of his fellow Prisoners who could not write. The Parson and Clerk were then both standing at the Table, and they both knew them to be Prisoners; the former had often spoken to them, and the latter knew them perfectly well. Jones did not see any Petition; there was nothing on the Paper he signed but a few names.

John Morgan† states that he cannot write; that, after Church on Sunday, the 14th ultimo, he was coming home when the Parson called him back to write his name; the clerk also told them they were to go and put down their names. Morgan said he could not write, and Jones wrote his name for him.

Hawes, Riley, and Turner‡ corroborate the above Statements, and, not being able to sign their own names, they asked Jones to write them for them.

Walker§ corroborates the statement of Jones, but wrote his own name; he did not know what he signed, but thought he was obliged to do as the Parson told him, and that they wanted to find out how many Protestants there were in the Colony.

* *Marginal note.*—John Jones, per "Clyde," 7 years.

† *Marginal note.*—John Morgan, per "James Lang," 7 years.

‡ *Marginal note.*—Robert Hawes, per "Morley," life; James Riley, per "Bengal Merchant," 14 years; William Turner, per "Mellish," life.

§ *Marginal note.*—Thomas Walker, per "Asia," life.

1836.

7 Oct.

Report *re*
method adopted
by Revd.
G. K. Rusden
for obtaining
signatures to
petition.

Wood* states that he was at Church on Sunday, the 14th ultimo, and was coming away with his fellow prisoners, when the Parson called them to sign the paper he had been preaching about. I was afraid to sign it and got out of the way; the rest went back; the Parson and Clerk both know us to be Prisoners.

Toomer† states that he attends the Scotch Service, but that, on the afternoon of Sunday, the 14th ultimo, he saw Goldingham, who asked him to come into the English Church, as he had a Paper for him to sign. Toomer at first declined having anything to do with it, when Goldingham told him that all his fellow prisoners had signed in the morning, and that he need not be afraid of any harm befalling him, as Mr. Lethbridge, the Magistrate, had signed the Paper, and that the Parson had said that every one, who was a Protestant, was to put their name to it. Toomer never saw any Petition nor was he aware that he had signed one; he saw nothing on the paper but a few names, and he wrote his under them.

I have, &c.,

P. LAURENTZ CAMPBELL, J.P.,

Police Magistrate of Maitland.

[Sub-enclosure.]

THE PETITION OF THE UNDERSIGNED INHABITANTS OF THE COLONY,
To His Excellency the Governor and the Honorable the Legislative
Council of New South Wales,

Respectfully Sheweth,

That your Petitioners are most anxious for the establishment of a system of General Education in this Colony, which may be effectual in inculcating upon the rising generation sound principles of religion and Morality, together with such useful knowledge as will best qualify them to discharge the duties of life satisfactorily to themselves and with advantage to the community.

That your Petitioners have observed, with extreme gratification, that the attention of His Majesty's Government has been particularly directed to this most important subject, and your Petitioners are firmly impressed with the belief that the wise and benevolent principle of allowing to each of the three leading branches of the Christian Faith a sum from the Public Revenue for the purpose of Education, and proportionate to their numbers, is of all others the best adapted to the circumstances of this Colony, and to the condition of its inhabitants.

That your Petitioners recognise the same benevolent disposition in the recommendation to make an experiment of the Irish system of National Education; but they are of opinion that that recommendation has proceeded from mistaken views as to the state of society in this Colony.

That, where the great majority of the population as in Ireland are Catholic, such a system may possibly be productive of good; but that in this Colony where, on the contrary, the great majority of the Inhabitants are Protestant, and which is in various respects so differently circumstanced, your Petitioners conceive that, as a general measure, it is utterly inapplicable; and they are apprehensive that an attempt to force it upon the Colony will not only be productive of other most injurious consequences, but can tend neither to advance the cause of Religion nor Education.

* *Marginal note.*—Henry Wood, per "Norfolk," life.

† *Marginal note.*—James Toomer, per "Eleanor," life.

Petition in
protest against
establishment
of national
schools.

Your Petitioners would further beg to submit that it appears to them essential to the success of any general system of Education, that it should not clash with the religious opinions and feelings or even prejudices of the majority; and your Petitioners have reason to believe that by far the greater portion of the Free Inhabitants of this Colony are decidedly adverse to the introduction of the Irish system; whereas the principle, before adverted to, of granting to each of the three leading religious persuasions an amount proportionate to their numbers, has in its favor the advantage of almost universal concurrence and approbation.

1836.
7 Oct.

Petition in protest against establishment of national schools.

Your Petitioners would in conclusion, with great deference, bring under the consideration of your Excellency and your Honorable Council that, of the seven Members of Council not holding office under Government, six have expressly declared, in a Petition to Parliament, "that the Legislative Council, as at present constituted, is inadequate to the exigencies of the Colony and has no hold upon the public confidence"; and that at this very time a new Law must have in all probability either been enacted, or be under consideration for the Government of this Colony, placing the Local Legislature upon a more efficient and popular basis.

Under these circumstances and for the reasons herein before set forth, your Petitioners most earnestly entreat your Excellency and your Honorable Council to defer the passing of any legislative measure upon a question of such vital importance to the present and future well being of this community, further than may be necessary to afford to each of the three leading religious persuasions such an amount in aid of Public Education as from their numbers they may respectively be entitled to.

And your Petitioners as in duty bound will ever pray.

[Enclosure No. 2.]

REV. G. K. RUSDEN TO SIR RICHARD BOURKE.

Sir, Sydney, 6 September, 1836.

Understanding on my arrival in Sydney that your Excellency had been pleased to remark on the signatures to a recent petition from Maitland, I have the honor to offer the following explanation.

Explanation by Revd. G. K. Rusden re signatures of convicts.

My exhortation was general. I made no individual applications. With very few exceptions, the persons, who signed it, were unknown to me either by name or by sight. I knew not whether they were free or bond. But I remember that one of my own servants said that he did not know that prisoners might sign until he saw Mr. H. Mitchell's men do so, and that I replied, I really do not know, but I suppose that it will not be wrong to do so as others have done. I now find that what was then done, was done in error; and I need scarcely assure your Excellency of my regret, and that nothing of the kind shall occur again. The passage relating to the Legislative Council was struck out to avoid any allusion to political questions.

I have, &c.,
G. K. RUSDEN.

[Enclosure No. 3.]

BISHOP OF AUSTRALIA TO SIR RICHARD BOURKE.

Sir, Sydney, 4th October, 1836.

I have the honor to acknowledge the receipt of the Colonial Secretary's Letter of the 7th Ultimo, addressed to me by your Excellency's direction, requesting I would call upon the Rev. Mr. Rusden for an explanation of the statement of his having induced

Letter acknowledged.

1836.

7 Oct.

several prisoners of the Crown, after a sermon preached by him on the 14th August. to affix their names to a Petition on the subject of General Education, which conveyed a reflection on the Legislative Council of the Colony.

Explanation
by Revd.
G. K. Rusden
re signatures
of convicts.

In his own vindication, Mr. Rusden has forwarded to me a relation of what occurred and of his participation in it, Strongly disavowing his having induced any prisoner of the Crown to sign the Petition in question. He assures me that, on the Sunday named in the Colonial Secretary's Letters, he did in discharge of his duty as a Protestant clergyman, called on by his own conscience and his oaths of ordination, invite his Protestant flock to support the fundamental tenet of their faith; and, this having done, he himself signed the Petition and recommended others to do the same. But he denies having addressed the Prisoners as such, as well as his having been aware that any of that class had signed the Petition, until informed by one of his own men that the assigned servants of one of the resident Magistrates had done so. This having been confirmed by the Clerk, Mr. Rusden states he replied to his servants' question whether they might sign, "I really do not know; but I suppose it would not be wrong to do as others have done"; and he further states that the names of his servants follow those of the other prisoners as the paper itself will shew.

I believe therefore that the impropriety, which thus originated, was sanctioned by Mr. Rusden from inexperience and unacquaintance with existing laws and regulations; and there is much force in an observation which he offers that, "to a candid and dispassionate enquirer, it must appear that he could only, under the influence of ignorance and error, retain a signature which must afterwards of necessity be expunged, or must vitiate and throw discredit upon the other names attached."

Mr. Rusden further informs me that, so soon as he was more accurately informed upon the subject, when on his arrival in Sydney he learned it was improper that prisoners should sign, he without delay wrote to your Excellency acknowledging his error, expressing his regret, and giving assurance that nothing similar should occur again.

With regard to the charge that the Petition conveyed a reflexion upon the Legislative Council, I am unable to express an opinion, as the Petition itself has not been before me. But Mr. Rusden informs me that a Paragraph, which spoke of the Legislative Council, was purposely struck out to avoid any allusion to political questions; and, if this clause had been retained, his name and the names of those who signed with him would have been withheld.

Mr. Rusden affirms that the statements collected from prisoners and laid before your Excellency are almost throughout grossly exaggerated, in many parts strangely perverting what took place, and in other parts directly untrue; and he mentions several particulars which confirm his assertion. On this account, as well as in consideration of the irregular and unauthorised mode in which the Statements, made by prisoners and contained in the Police Magistrate's Letter, were obtained, I trust your Excellency will attribute to them no more weight than such testimony is ordinarily considered to be entitled to.

I have, &c.,

W. G. AUSTRALIA.

Reasons for
omission of
reference to
legislative
council.

Criticism of
statements by
convicts.

SIR RICHARD BOURKE TO LORD GLENELG.

(Despatch No. 109, per ship William Harris; acknowledged by lord Glenelg, 9th May, 1837.)

1836.
8 Oct.

My Lord,

Government House, 8 Oct., 1836.

Upon receipt of your Lordship's Despatch of 21 Jany. last, No. 97, I immediately directed the Colonial Treasurer to prepare for transmission the Quarterly Returns and the subsidiary abstracts therein directed to be furnished. I have now the honor to forward the Return and abstracts, which he has supplied for the Quarter ending 30 June last.

Transmission of quarterly returns of revenue and expenditure.

I regret extremely that so much misunderstanding should have arisen as to the form of preparation and so much delay occurred in the transmission of these Returns. The enclosed Letter from the Auditor General will in great measure account for both. I had desired the Colonial Treasurer to prepare and forward the Returns, that officer being expressly charged with this duty by Lord Stanley's Despatch of 21 November, 1833, No. 56, and, if the Returns and abstracts now sent for the Quarter ending the 30 June will answer the purpose, there is no reason why he should not continue to discharge it. It is however considered both by him and the Auditor General that these abstracts do not contain the information required, and that a quarterly account of Revenue and Expenditure prepared in the same form as the annual statement prepared by the Auditor General is perhaps what is wanted. The Treasurer can not prepare such Returns as those last mentioned without adding to his Establishment of Clerks for the purpose, and receiving more detailed statements from the several Collectors of Revenue than are now furnished to his Office.

Errors in form and delay in transmission of returns.

Opinions re abstracts required.

I have therefore directed the Auditor Genl. to prepare quarterly statements in the same form as those which he transmits annually, commencing with the 1st July last, which shall be transmitted as prepared. I hope it may be possible to accomplish this additional labor in his office without an extension of Establishment. I have also directed the Treasurer to continue the transmission of the Quarterly Returns with the subsidiary abstracts, and I have to request Your Lordship's commands as to which of these two forms of Returns I am to continue to forward.

Statements to be prepared by auditor-general:

and by treasurer.

I should observe here that the subsidiary abstracts are transmitted quarterly from the auditor General here to the Commrs. for auditing the public accounts in London.

I have, &c.,

RICHD. BOURKE.

[Enclosure No. 1.]

[These were abstracts* of the revenue and expenditure for the quarter, April-June, 1836.]

* Note 154.

1836.
8 Oct.

[Enclosure No. 2.]

MR. W. LITHGOW TO COLONIAL SECRETARY.

Sir,

Audit Office, Sydney, 5th October, 1836.

Report by
W. Lithgow
re returns of
revenue and
expenditure.

I have the honor to acknowledge the receipt of your Letter of the 4th Instant, No. 290, transmitting the enclosed Reports and Letters from the Colonial Treasurer on the subject of the Quarterly Returns of Revenue and Expenditure required by the Rt. Honorable the Lords of the Treasury, and requesting me to report on the same, with reference to the Circular Letter of Lord Goderich of the 28th February, 1832, and its enclosures.

In reply I have the honor of submitting that the Abstracts, now furnished by the Colonial Treasurer, are considered to be the subsidiary Vouchers pointed out in the Secretary of State's Despatch of the 21st January, 1836, as required by the Lords Commissioners of His Majesty's Treasury, being, as they are therein described, "those to which reference is made in the Colonial Treasurer's Quarterly Return."

I beg leave, however, to state that I coincide with the Treasurer in opinion that these subsidiary Abstracts may not furnish the information, as to the Colonial Revenue and Expenditure, in the Form desired by their Lordships.

The Statement of Revenue and Expenditure, prepared Annually in this Office for transmission to the Secretary of State for the Colonies, of which that for the Year 1835 was forwarded in my Letter No. 26 of the 11th May last, was planned with the view to meet the wishes of their Lordships, as signified in the Treasury Letter to Mr. Hay of the 17th October, 1831; and it was prepared for an Yearly period, in consequence of its having been Stated in Lord Goderich's Circular Letter, enclosing the Copy of the Treasury letter to Mr. Hay abovementioned, "That, in respect of Colonies having Colonial Legislatures, it would be sufficient in those cases, if such Statements were transmitted Annually."

I am not aware, however, whether this Form has been considered to answer the end proposed. On a notification to this effect, corresponding Statements might, if required, be prepared for transmission Quarterly, instead of Annually; and though it would doubtless occasion considerable additional labour to prepare these Statements Quarterly in the Form alluded to in the office of the Colonial Treasurer, it is considered that little information beyond that contained in the Documents, which form the Vouchers to his Accounts, would be required for the purpose of enabling him to prepare such Statements.

I have, &c.,

WM. LITHGOW, Aud'r.

SIR RICHARD BOURKE TO LORD GLENELG.

(Despatch No. 111, per ship William Harris; acknowledged by lord Glenelg. 8th April, 1837.)

10 Oct.

My Lord,

Government House, 10 Oct., 1836.

Understanding from Col. Arthur that he would leave* Van Diemen's Land for England at the beginning of this month, I directed in general orders the Major of Brigade Lt. Colonel Kenneth Snodgrass, the officer next in rank to me on this station, to proceed to Van Diemen's Land to take the command of the

K. Snodgrass
sent to
Tasmania.

Troops in that Island and its Dependencies under instructions of which I have the honor to transmit a Copy.

1836.
10 Oct.

Upon the departure of Colonel Arthur, the administration of the Government will devolve on Lt. Colonel Snodgrass until the arrival of Sir John Franklin. From his rank in the Command, I have considered Lt. Colonel Snodgrass entitled to this distinction, and, from having been about two years in the Executive and Legislative Councils of this Colony, he is not a stranger to the manner of conducting public business.

K. Snodgrass
to administer
government
in Tasmania.

I have, &c.,

RICHD. BOURKE.

[Enclosure.]

ASSIST. MILITARY SECRETARY HUNTER TO LIEUT.-COLONEL
SNODGRASS.

Asst. Military Secretary's Office,
Sydney, 1st October, 1836.

Sir,

With reference to the General Order of this day's date, appointing you to the Command of the Troops stationed in Van Dieman's Land, I am directed by His Excellency Major General Sir Richard Bourke to desire that you will transmit to me from thence the Returns required by the Regulations of the Army and the standing orders of this Command, and report to me all extraordinary for His Excellency's information.

Instructions to
K. Snodgrass
re service in
Tasmania.

I have the honor to enclose Warrants, empowering you to assemble Courts Martial on that station.

I am further directed to acquaint you that, if upon your arrival at Van Dieman's Land, or whenever after you shall be informed by Lieut. Governor Sir John Franklin or shall learn from any other authentic source of information subsequently to the Lieut. Governor's arrival, that it is the pleasure of the General Commanding in Chief that the Troops in that station shall be under the Command of the Senior Regimental Officer present, or, if any other Officer shall subsequently arrive in Van Dieman's Land appointed by the General Commanding in Chief to take the Military Command there, tho' of inferior rank to yourself, it is His Excellency's desire that you consider yourself upon leave of absence only, and take the earliest opportunity of returning to these Head Quarters. You are however distinctly to understand that you are not hereby required to give up the Command of the Troops to any but a Senior Officer, until after the arrival of Lieut. Governor Sir John Franklin, or other Lieut. Governor appointed by His Majesty.

I have, &c.,

W. HUNTER, Asst. Mily. Secy.

SIR RICHARD BOURKE TO LORD GLENELG.

(Despatch No. 112. per ship William Harris.)

My Lord,

Government House, 11 Oct., 1836.

11 Oct.

In continuation of the Report transmitted with my Despatch of the 3rd March last, I have the honor to transmit a detailed statement shewing the manner in which the Female

Disposal of
emigrants per
ship *James
Pattison*.

1836.
11 Oct.

Emigrants who arrived by the James Pattison on the 6th Feby. last have been disposed of.

Arrival of ship
Duchess of Northumberland.

The Duchess of Northumberland arrived on the 3rd inst. with Emigrants, a large proportion of whom have already been engaged at good wages. Further particulars regarding them will be reported to your Lordship by the next opportunity.

Request for
ship with
emigrants from
England or
Scotland.

In providing for future supplies of Female Emigrants, I could wish that your Lordship would direct a Ship from England or Scotland to this Colony. Although, as I have once before observed, I am inclined to think that the generality of the women received from Ireland have turned out better in point of morals than this from England, arising perhaps from a more careful selection of the former, yet to the English Settlers here it is a disappointment not to find occasionally a vessel with their Countrywomen arriving on these shores, whilst so many are disembarked in Van Diemen's Land.

I have, &c.,

RICHD. BOURKE.

[Enclosures.]

[*These lengthy statements* have been omitted.*]

SIR RICHARD BOURKE TO LORD GLENELG.

(Despatch No. 114, per ship William Harris.)

14 Oct.

My Lord,

Government House, 14 Octr., 1836.

Since closing my Despatches for the "William Harris," the Colonial Schooner "Isabella" has returned from her search after the Passengers and crew of the "Charles Eaton" with the melancholy intelligence that, with the exception of the five men whose escape was previously known, and two survivors found in the hands of the natives of Murray's Island, the whole have been murdered by the Savages. The two found alive are John Ireland, a Ship's Boy, and William, the youngest child of Captn. D'Oyley, who have been brought up by the Isabella to Sydney. Every care will be taken of Captn. D'Oyley's son (who appears about four years old) until means are found for his restoration to his friends. The "Wm. Harris" being on the point of sailing. I am only able to give at present this outline of the facts with a few other particulars comprised in the accompanying statement of Captn. Lewis, the master of the Isabella. I propose to transmit a more detailed account, taken from the Journal of Captn. Lewis, by the next opportunity.

I have, &c.,

RICHD. BOURKE.

Return of
schooner
Isabella.

Survivors from
wreck of ship
Charles Eaton.

[Enclosure No. 1.]

1836.
14 Oct.

CERTIFICATE RE PASSENGERS AND CREW ON SHIP CHARLES EATON.

I CERTIFY that the Ship "Charles Eaton," Frederick George Moore, Master, cleared outwards at this Custom House on the 28th July, 1834, for Canton, and that the following is a correct list of the Passengers and crew:—

Certificate re
passengers and
crew on ship
Charles Eaton.

Passengers.—O. G. Armstrong, Esq.; Captain D'Oly; Mrs. D'Oly; W. D'Oly; E. D'Oly; One Native Nurse.

Crew.—F. G. Moore, Master; F. Clare, Mate; W. Masser, Do.; G. Pyatt, Do.; F. Grant, Surgeon; L. Constantine, Carpenter; Wm. Montgomery, Steward; W. Penny, J. Ching, B. Quinn, A. Quinn, W. Moore, C. Robinson, J. Coen, W. Hill, J. Benny, R. Loanin, J. Ireland, W. Jeffreys, J. Wright, W. Gamble, J. Miller, W. Williams, Seamen.

THOS. JEFFREY, Tide Surveyor.

Custom House, Sydney, New South Wales.

[Enclosure No. 2.]

STATEMENT of Captain Lewis, Master of the Colonial Schooner *Isabella*, despatched to Torres Straits in search of the Passengers and Crew of the "Charles Eaton."

Report re
search for
survivors from
ship *Charles
Eaton.*

HE sailed from Sydney on the 3rd June last, reached Murray's Island on the 19th and found there the Survivors of the *Charles Eaton*, vizt.. John Ireland, Ship's Boy, and William, youngest son of Captain D'Oyley of the Company's Service.

He was informed by the Boy that the Ship was wrecked near Sir Charles Hardy's Island; that the Carpenter and four men left the wreck the day the Ship struck, as was reported in the newspapers; that subsequently the rest of the crew and passengers made two rafts and were drifted upon an Island in the Straits of Torres, called by the Natives *Boydang*, in Latitude 11° 28' South, and Longitude 142° 59' East. They were all (except the two Persons above mentioned) murdered by the Natives of an Island called *Oureed*, who were then at *Boydang* fishing. The lives of these two having been preserved from some unknown motive, and the Savages having taken them to *Oureed* or some adjacent Island (the Boy John Ireland is not sure of the place), some natives of Murray's Island, who had heard of White men being there, arrived in a Canoe and purchased them of the Savages of *Oureed* for a Bunch of Bananas each. The Purchasers removed them to Murray's Island and treated them with great kindness during nearly two years that they sojourned there, giving them up to Captain Lewis with manifestations of great regret, and appearing much attached to them. Captain Lewis was on the most friendly terms with the Natives of this Island during the whole of his Stay.

At Murray's Island, Capt'n. Lewis was informed that the skulls of the murdered Persons had been removed from *Boydang* to *Oureed*. He therefore determined to go for them, and after a long search found them as described. The Island was deserted by the Natives on his approach, the Skulls being left behind in the hurry of the Escape. *Oureed* is in Latitude 9° 56' 7" South and Longitude 143° 10' 15" East.

Captain Lewis brought off 45 Skulls, seventeen of which are said to be European. From Oureed he proceeded through the Straits of Copang and thence round Cape Leewin to Sydney. While passing through the Straits, he was joined at Double Island by the East India Company's Brig Tigris, which accompanied the Isabella to Copang, where She parted on her return to India.

1836.
14 Oct.
Report *re*
search for
survivors from
ship *Charles*
Eaton.

LORD GLENELG TO SIR RICHARD BOURKE.

(Despatch No. 220, per ship Norfolk.)

21 Oct.

Sir,

Downing Street, 21st October, 1836.

Despatch
acknowledged.

I have received your Despatch No. 119 of the 18th December last, in which you bring under my notice an "address" delivered to a Petit Jury by Mr. Justice Burton, at the close of the last Criminal Session of the Supreme Court of New South Wales.

Opinion *re*
address of
W. W. Burton
to petit jury.

I entirely concur with you in giving credit to Mr. Burton for none but the most humane and upright motives in delivering that address; but I equally subscribe to your expression of regret that the address confines itself to certain parts of the general subject to which it relates. In any attempt to describe the condition of the Colony as to crime, the peculiar character of its population ought not to be left out of view. In a society composed to so great an extent of convicted Criminals, it surely would be preposterous to expect a state of Public Morals admitting of an advantageous comparison with that of countries peopled under happier auspices. Whatever may have been the wisdom or the impolicy of creating a great Penal Settlement, the Authors of that scheme could not have failed to regard a more than average amount of Crime amongst the Colonists as one of its inevitable results. Mr. Burton's statements are material rather as arguments for the discontinuance of the system than as proofs that it has been ill administered.

Excess of crime
expected in
penal colony.

I regret that you should see any reason to construe Mr. Burton's statements, altho' you acquit him of any intention to countenance such a construction, as conveying a censure of your official conduct; It is due to you to state that His Majesty's Government have hitherto placed the utmost reliance on your zeal for the general welfare of the Colony, and especially on your efforts to promote the religious and moral improvement of the Inhabitants, nor can I discover in Mr. Burton's Address any fact or suggestion, which has the slightest tendency to impair or diminish that confidence.

Testimony to
services of
Sir R. Bourke.

I am, &c.

GLENELG.

LORD GLENELG TO SIR RICHARD BOURKE.

1836.
30 Oct.

(Despatch No. 222, per ship Pringe George; acknowledged by Sir Richard Bourke, 15th September, 1837.)

Sir, Downing Street, 30th October, 1836.

I have the honor to transmit to you herewith a copy of an application which I have received from an Individual named Helmesley for a certificate of the death of her late Husband, whom she represents to have died at Sydney; and I have to request that you will have the goodness to furnish if possible the document desired.

Death certificate of J. Helmsley required.

I have, &c.,
GLENELG.

[Enclosure.]

MRS. HELMSLEY TO LORD GLENELG.

No. 12 Nelson Street,

My Lord, New Town, Deptford, 24th Oct., 1836.

A deeply distressed Woman applies to your Lordship to obtain in her behalf a faithful statement of her husband's Death from the proper Authorities in Sydney, New South Wales. He was an Out pensioner of the Royal Hospital at Greenwich upon £16 p. Annum. He shipped on board of the Free Trader Australia at 5s. per month, with a valuable Chest of Clothing and an expensive Chest of Tools; in consequence of her not receiving a Document of his Death from the Medical Gentlemen at the Hospital at Sydney, your supplicant has been deprived of the means of application to their Lordships at the Admiralty Board to obtain the desirable situation of Nurse in the Royal Hospital, His Arrears of Pension Money, and a deposit of £300 upon interest in the hands of Mr. Brown a Banker in North Shields.

Reasons for request for death certificate.

Thus, my Lord, are you humbly requested by your supplicant, in your next Dispatch to that Colony, to obtain from the proper authority the return to your Office a satisfactory Document of his Death to be sent to your deeply distressed supplicant,

who will, &c.,

MARY HELMSLEY,

Widow of the late John Helmsley.

LORD GLENELG TO SIR RICHARD BOURKE.

(Despatch No. 223, per ship Prince George.)

Sir, Downing Street, 31st October, 1836.

31 Oct.

With reference to my Dispatch No. 182 of the 11th of August last, in which I requested you to propose to the Legislative Council an increase to the pecuniary Grant to the Mission of the Church Missionary Society to the Aborigines, I have now the honor to transmit to you the enclosed copy of a Letter from

Transmission of letter from Church missionary society.

1836.
31 Oct.

Appointment
of missionary.

the Secretary to that Society, notifying the appointment of an additional Missionary, and requesting that the expence of the outfit, and passage of the Missionary and his Wife, may be paid out of the Colonial Grant in aid of the Mission. I am, &c.,
GLENELG.

[Enclosure.]

[A copy of this letter* is not available.]

LORD GLENELG TO SIR RICHARD BOURKE.
(Despatch No. 224, per ship Prince George.)

Sir, Downing Street, 31st October, 1836.

I have the honor to transmit to you herewith for your information a copy of a Letter from the Secretary to the Treasury with its enclosure, explaining the reasons which had induced the Lords Commissioners to sanction the appointment of a Deputy Ordnance Storekeeper to the Ordnance Establishment at New South Wales.

I am, &c.,
GLENELG.

[Enclosure.]

MR. A. Y. SPEARMAN TO UNDER SECRETARY STEPHEN.

Sir, Treasury Chambers, 26th Oct., 1836.

I am commanded by the Lords Commissioners of the Treasury to transmit to you the copy of a Letter from the Board of Ordnance of the 2nd Ulto., recommending the appointment of a Deputy Storekeeper to proceed to New South Wales from this country, and to request that, in submitting the same to Lord Glenelg you will state to his Lordship, that, on the considerations so strongly urged by the Master General and Board, my Lords have sanctioned the further appointment from this Country therein recommended.

I am, &c.,
A. Y. SPEARMAN.

[Sub-enclosure.]

MR. G. BUTLER TO MR. A. Y. SPEARMAN.

Sir, Office of Ordnance, 2nd Sept., 1836.

I have the honor by command of the Master General and Board of Ordnance to transmit to you, for the consideration of the Lords Commissioners of His Majesty's Treasury, the enclosed copy of a Letter from the Commanding Royal Engineer and Ordnance Storekeeper at Sydney, New South Wales, representing the necessity of a Deputy Storekeeper at that station.

In the report of the Chief Clerks under the Clerk of the Ordnance and principal Storekeeper, dated 11th Jan., 1835, on the formation of Ordnance Establishments in Australia, a copy of which accompanied the Master General's and Board's Communication to you of

* Note 134.

Appointment
of deputy
ordnance
storekeeper.

Proposal for
appointment
of deputy
ordnance
storekeeper.

the 12th Feby., their recommendations were limited to the appointment of such officers as were indispensably necessary for the initiation of the Ordnance system into the Colony, and they suggested that the respective officers to be appointed should report what further appointments were required to complete the Establishment on an adequate but economical scale, as soon as they should have ascertained the nature and extent of the duties to be performed. The present recommendation from the respective officers, the Master General and Board consider as resulting from that arrangement, and they beg to submit for their Lordships' consideration the following observations thereon.

1836.
31 Oct.

Proposal for
appointment
of deputy
ordnance
storekeeper.

The enclosed statement of duties performed by the Storekeeper's Department comprises a great variety of store and Cash accounts, with an exclusive correspondence. The active operations also belonging to a Store Department appear to be numerous and onerous, arising from circumstances peculiar to a penal settlement from the number of Stations within the storekeeper's province, and the extent of Country over which they are scattered, and at each of which his presence will be occasionally necessary.

The responsibility attaching to the Storekeeper from the existing system of contracting largely for supplies upon the spot deserves particular attention, to which may be added the labour and care necessary to separate the accounts relating to the different services, Military, Commissariat, Convict, and Colonial, which from the respective officers' Report appear to have been hitherto intermixed, as well as to reduce them to the forms required by the Ordnance system.

Having duly considered these and other circumstances connected with the question, the Master General and Board are of opinion they present an aggregate, requiring certainly at the commencement of the undertaking an extent of personal superintendence far beyond the power of one individual to afford, and therefore as a measure which appears both reasonable and expedient, the Master General and Board beg to recommend the respective officers' request for the appointment of a responsible assistant to the Storekeeper for their Lordships' favorable consideration.

The Master General and Board would therefore request their Lordships' sanction to the appointment of a Deputy Storekeeper with a Salary of £200 per ann., increasing at £10 per ann. to £300, and the usual allowances.

The Master General and Board would observe in conclusion that, should their Lordships sanction the appointment, they would take care that the situation should, as essential to its utility, be filled by an active officer well experienced in the Ordnance service, thoroughly versed in the Ordnance system of accounts. By this precaution, the Master General and Board think the progress of the service would be facilitated in the highest degree, and that systematic information secured, which is required from Ordnance Storekeepers, as highly requisite for an active check upon Expenditure of all descriptions, but in which, so far as the experience of this Department extends, the demands for Stores and other documents received from the Colony have hitherto been extremely deficient.

I have, &c.,

G. BUTLER, for Secy.

1836.
1 Nov.

SIR RICHARD BOURKE TO LORD GLENELG.

(Despatch No. 115, per ship Vestal; acknowledged by lord Glenelg, 14th October, 1837.)

My Lord, Government House, 1 November, 1836.

Augmentation
of police
establishment
at Port
Macquarie.

I have the honor to report that, having had occasion to appoint a successor to Mr. Sullivan in the office of Police Magistrate at Port Macquarie, I found it necessary to augment the Police Establishment at that place in numbers and pay. The duty has become important and heavy from the great influx of free Settlers to the fertile Country on the Banks of the Hastings, and the addition of Specials and other Convicts sent there nominally in Government employ, but principally to be out of the way of harm, these being either persons of feeble bodily health or incorrigible petty thieves. I have continued the employment of many of the Specials as ordinary Constables without pay, but with a better ration than other Convicts, in order to keep down the expence of the Establishment; but, as the duty of the place encreases, the Police Magistrate informs me he apprehends he will be obliged to ask for pay for the most deserving Specials, or the appointment of free men. I have therefore reason to anticipate a further demand on the British Treasury for the charge of this demi-penal Settlement.

I enclose a return of the Establishment now authorized.

I have, &c.,

RICHD. BOURKE.

[Enclosure.]

POLICE ESTABLISHMENT, PORT MACQUARIE.

Return of
police
establishment
at Port
Macquarie.

from 1 Sept., 1836,	Police Magistrate	£300 pr. ann.
from 1 November, 1836,	Clerk of Bench	150 "
"	Chief Constable	100 "
"	4 District Constables	3s. a day.
"	1 Watch House Keeper . . .	3s. "
"	1 Matron Factory	3s. "
"	1 Scourger	2s. 3d. "

SIR RICHARD BOURKE TO LORD GLENELG.

(Despatch No. 117, per ship Vestal; acknowledged by lord Glenelg, 3rd October, 1837.)

3 Nov.

My Lord, Government House, 3 November, 1836.

Despatch
acknowledged.

I have the honor to acknowledge the receipt of your Lordship's despatch of the 25th March, 1835, authorising the erection of another Residence for the Governor of this Colony, the House which now stands in Sydney being hardly habitable. Thinking it likely that in the course of this or the next year, there might arrive such a supply of workmen as would enable me to proceed

with the Building, I appointed a Committee of the Leg. Council at the last Sessions to examine and report upon the Plan and Estimate. I have the honor to transmit their Report* with the Minutes of Evidence.

1836.
3 Nov.

Committee's report re new government house.

Your Lordship will perceive that the sum required for the Govt. House is much larger than that to which the expenditure is limited by your Lordship's Despatch, and I should add that the enclosing wall or paling will require another considerable sum. The wages of labor have risen considerably here within the last year, and some of the materials for building are much enhanced in price since the year 1832, when the first communication† on the subject was made to the Secretary of State. On the other hand, the value of land and especially in or near Sydney has so much increased as to ensure the perception of a much larger sum for that which the Government is to give up than will be required for the erection of the proposed Buildings and the completion of the other contemplated improvements. The general feeling, also, is in favor of the erection of a Building which shall be an ornament to the shores of Port Jackson and create a favorable impression of the importance and resources of the Colony. Upon the whole, therefore, I would respectfully recommend to your Lordship to accede to the proposal of the Committee.

Expenditure involved.

Prospects of increased realisations from land sold.

Public opinion re building.

The Council at the last Session voted the sum of £10,000 towards the erection of the new Government House for the year 1837. So great an outlay is not likely to take place within the year for want of workmen. Before its Expiration, I hope to be honored with your Lordship's commands on the subject.

Sum voted for new government house.

I have, &c.,

RICHD. BOURKE.

[Enclosure.]

[A copy of this report will be found in the "Votes and Proceedings" of the legislative council.]

SIR RICHARD BOURKE TO LORD GLENELG.

(Despatch No. 118, per ship Vestal; acknowledged by lord Glenelg, 14th July, 1837.)

My Lord,

Government House, 4 Novbr., 1836.

4 Nov.

The accompanying Memorial which I have the honor to forward from Mr. Henry Dangar, formerly a Surveyor in the employ of this Government, relates to a subject which has already been under the consideration‡ of His Majesty's Government. The facts are shortly these. In the year 1826, Sir Ralph Darling dismissed Mr. Dangar from the public service for having improperly

Transmission of memorial from H. Dangar.

* Note 157.

† Note 158.

‡ Note 159.

1836.
4 Nov.

Dismissal of
H. Dangar.

Decision by
Sir G. Murray
re land claimed
by H. Dangar.

Refusal by
Sir R. Bourke
to reopen case.

Report by
A. Macleay.

Suspension
of decision
re claims of
H. Dangar.

Request
for decision.

availed himself of his situation to appropriate Land to himself and to his Brother, to the prejudice of others having a prior claim of selection. Mr. Dangar having appealed to Sir George Murray then Secretary of State for the Colonies, that Minister confirmed the decision of the local Government, and directed moreover that Mr. Dangar should not be allowed to retain otherwise than by purchase at a fixed price, under the Regulations then in force, a tract of 1,300 acres to which he considered himself entitled as a free grant, under a promise of 2,000 acres made to him by Sir Thomas Brisbane. Mr. Dangar was to be allowed to select 700 acres to complete those 2,000 acres on the same terms of purchase; but it was directed that he should not be permitted to retain, on any terms, any part of certain other 2,000 acres, the attempt to appropriate which formed the ground of accusation brought against him.

Since I assumed this Government, Mr. Dangar has frequently complained to me of the harshness of this decision; but I have uniformly refused to reconsider a case already so fully settled both by my Predecessor and by the Secretary of State. My only object until the present moment has been to obtain such a report from the Colonial Secretary as would enable me to carry into effect the decision of Sir George Murray. Mr. Dangar's Memorial has now drawn the accompanying remarks from Mr. McLeay, and as he seems to entertain some doubt as to a part of the decision referred to, I have been induced partly by this, and partly by the promise of Mr. Dangar to comply immediately with your Lordship's decision, whatever it may be, to suspend the enforcement of Sir George Murray's until an answer be received to the Memorial now forwarded. Were I to proceed in the matter at the present juncture, the Crown might be put to much trouble and expence in legal proceedings, which it is desirable, if possible, to avoid. Mr. Dangar is still in possession of the 1,300 acres mentioned in Mr. Hay's letter, and I find that he is also in possession of 300 acres, part of the 2,000 which he was not to be allowed to retain on any terms. To fulfil, therefore, the Instructions of Sir George Murray, it will be necessary to call for payment of the price of the former, and to require Mr. Dangar to relinquish the latter, in order to its being sold by public auction under the existing Regulations. It will be for your Lordship, on perusal of Mr. Dangar's Memorial, to determine whether this course shall be adopted, or whether any indulgence should be shewn to him. For the reasons before given, I have suspended actual proceedings against Mr. Dangar until I receive your Lordship's reply, which I trust may not long be delayed, as so much procrastination has already occurred here in the office of the

Colonial Secretary, and it is desirable to bring the matter to an actual issue without loss of time.

1836.
4 Nov.

Before closing this Despatch, it may be proper to advert to that part of Mr. Dangar's Memorial in which it is stated that Mr. Macintyre, who brought forward the charge leading to his dismissal, has been removed from the Commission of the Peace. This removal had no reference to the case of Mr. Dangar, nor to the charge of perjury also alluded to, on which Mr. McIntyre was tried and acquitted. Nor have I any reason to doubt the perfect propriety of the measures adopted towards Mr. Dangar by my Predecessor.

Removal of
P. Macintyre
from
commission
of peace.

I have, &c.,

RICHD. BOURKE.

[Enclosures.]

[Copies of these papers are not available.]

LORD GLENELG TO SIR RICHARD BOURKE.
(Despatch No. 225, per ship Prince George.)

Sir, Downing Street, 8th November, 1836.

8 Nov.

I have received from Mr. Wm. Dumaresq a letter, dated the 24th December last, with which he has forwarded to me a Memorial, dated the 17th Novr., in which he has renewed his claim to a certain Building Allotment* in Hyde Park, or else to full compensation for its loss.

Letter received
from
W. Dumaresq.

I have attentively considered the statement contained in that Memorial, as well as the Report furnished in your Dispatch No. 122 of the 24th Decr., 1832, respecting this claim, and I regret to say that I have been forced to the conclusion that Mr. Dumaresq has no claim to compensation for the loss of the Allotment in Hyde Park. It is quite clear from the letters written to Mr. Dumaresq by the Colonial Secretary, on which Mr. Dumaresq rests his claim, that the promise of the Land was made contingent on the final adoption of the Plan for dividing the Park into Building allotments. As, however, the Government abandoned that design altogether, Mr. Dumaresq could have no right to insist on the partial execution of it in his own favor. He could only expect to receive the same indulgence as was conceded to the other Claimants, not as a compensation for their disappointment. It is, therefore, unfortunate that Mr. Dumaresq should have declined to accept the offer which you made to him in the first instance, as I do not feel myself at liberty now to interfere in his favor.

Refusal
of claim of
W. Dumaresq
for
compensation.

Having perceived in Mr. Dumaresq's Memorial a statement that an allotment of Land had been made to Mr. Forbes, the Chief

* Note 160.

1836.
8 Nov.

Alleged grant
of allotment at
Hyde park to
F. Forbes.

Justice, in Hyde Park, I thought it right to avail myself of the opportunity, which Mr. Forbes' presence in England affords, of calling upon him for an explanation of an occurrence, which, at first sight, could not but be regarded with jealousy. The grant to the Chief Judge of the Colony of a personal advantage, which had, on public grounds, been denied to every other Candidate, and even to those who held conditional promises from your Predecessor, would seem to compromise the independence of the Judicial character. I enclose a copy of the explanation furnished by Mr. Forbes, which is, as I anticipated, perfectly satisfactory.

I have, &c.,

GLENELG.

[Enclosure.]

CHIEF JUSTICE FORBES TO SIR GEORGE GREY.

Sir,

Cambridge, 1st Novr., 1836.

I have the honor to acknowledge your Letter of yesterday's date, communicating the substance of a Memorial from Mr. William Dumaresque, and requesting, for the information of Lord Glenelg, that I should state the circumstances under which any Grant of Land in Hyde Park may have been made to me; and in reply, I take occasion to express my thankfulness to his Lordship for the opportunity afforded me of explaining the transaction alluded to by Mr. Dumaresque.

The piece of ground,* he refers to, forms no portion of Hyde Park, but is the corner of what is usually called the old Military Garden lying to the South East of Hyde Park. I received a Grant of this allotment from Sir Richard Bourke in compliance with the directions of Mr. Secy. Rice, that I should have granted to me a suitable piece of ground in Sydney to build a House for myself, in consideration of being deprived of the official residence which I had previously occupied, free of Rent, under the provisions of His Majesty's Charter, as Chief Justice of the Supreme Court.

In further explanation, I have the honor to state that, when I was appointed to New South Wales in 1823, it was the usual, if not the invariable practice to grant building allotments in Sydney to the Public Officers, in common with Emigrants. All the Judges, who held office before me, as well as my associates Mr. Justice Stephen and Mr. Justice Dowling, had grants of building allotments. An official residence having been provided for me, I did not apply for any allotment in Sydney, but I obtained the permission of the Governor Sir Thomas Brisbane to occupy, as a Garden, that part of the Old Military Garden which is referred to. In consequence of being deprived of an official residence contrary, as I conceived, to the terms of the Charter, and certainly to my own understanding when I received my appointment, I addressed a Letter† to Lord Stanley stating the grounds of my claim, and requesting, in the event of its being decided against me, that the Governor should be instructed to grant me a suitable piece of ground in Sydney to build a habitation for myself. Mr. Secretary Rice was pleased to accede to my request, and I applied for and obtained a Grant of the piece of ground which I then held as a Garden. I beg to observe that this piece of ground adjoins the piece granted by Sir Thomas

Statement by
F. Forbes re
his allotment
granted at
Sydney.

* Note 161.

† Note 162.

Brisbane to the Sydney College, and as I conceive, does not, from its situation, interfere with any objects of public health or convenience, assigned by the local Government as a reason for not granting any part of Hyde Park.

I hope that the above explanation will satisfy Lord Glenelg that, in the transaction referred to by Mr. Dumaresque, I have neither sought nor received any favor for Sir Richard Bourke.

I have, &c.,

FRANCIS FORBES.

1836.
8 Nov.

Statement by F. Forbes re his allotment granted at Sydney.

LORD GLENELG TO SIR RICHARD BOURKE.

(Despatch No. 226, per ship Prince George.)

Sir,

Downing Street, 9th November, 1836.

9 Nov.

I have received your Despatches of the 12th April last, the one numbered 44, and the other marked Separate, reporting that, in consequence of the departure of Mr. Forbes for England, you had made the following Provisional Appointments for the administration of Justice, viz. :—

Despatches acknowledged.

Provisional appointments of judges.

Mr. Dowling to act as Chief Justice; Mr. Kinchela to act as Puisne Judge; and Mr. Plunkett to act as Attorney General.

I am happy to find by those Appointments that you have, in a great measure, anticipated the Instructions conveyed to you in my Despatch No. 112 of the 24th Feby. last.

I perceive that you have guaranteed to those Gentlemen the full Salaries of the Offices respectively assigned to them during Mr. Forbes' absence, thereby occasioning to the Public an additional Charge of £1,000 per annum for the Judicial Department, beyond what was contemplated by my Despatch No. 112, but creating an increase of £434 only to the expense of that Establishment as it stood when you effected the arrangement in question. Under ordinary circumstances, I should have been very unwilling to authorise a departure from the established Regulations;* but, as I gather from your Despatch that you were unable, on the present occasion, to make a more economical arrangement, I shall not refuse to sanction the additional expense. It will, however, be the more incumbent on you to limit, as much as possible, the further charge which you appear to contemplate for the occasional employment of a Barrister in aid of the Attorney General.

Salaries for acting judges.

You will have learned from my Dispatch No. 112 that, in conformity with your suggestion, the Office of Solicitor General has been abolished.

Abolition of office of solicitor-general.

Your recommendation of Mr. Forbes for the Honor of Knighthood will receive due consideration.

I have, &c.,

GLENELG.

Proposed knighthood for F. Forbes.

* Note 163.

1836.
10 Nov.

LORD GLENELG TO SIR RICHARD BOURKE.
(Despatch No. 227, per ship Prince George.)

Sir, Downing Street, 10th November, 1836.

Report required
re claims of
F. Lhotzky.

I have to request that you will inform Dr. Lhotsky that I have received his letter dated the 2d of May last, in which he seeks remuneration for the Discoveries made by him in the Interior of New South Wales; but that, as he omitted to forward his application through you, I am under the necessity of deferring my decision on the subject, until I shall have been furnished by you with a Report* on the claims of Dr. Lhotsky.

I have, &c.,
GLENELG.

LORD GLENELG TO SIR RICHARD BOURKE.
(Despatch No. 228, per ship Prince George.)

Sir, Downing Street, 10th November, 1836.

Extension of
time granted to
W. Raymond.

With reference to my Despatch No. 145 of the 18th of April last, I have to acquaint you that, in consequence of Mr. Raymond having been compelled by the severe indisposition of his Wife to postpone his departure for New South Wales, I have consented to extend the period allowed to him for taking possession of his Land at Wellington Valley until the end of May next.

I am, &c.,
GLENELG.

SIR RICHARD BOURKE TO LORD GLENELG.
(Despatch No. 119, per ship Vestal.)

My Lord, Government House, 10 Novbr., 1836.

Seat in
executive
council
for bishop.

Objections
to clergy as
members of
councils.

I have the honor to acknowledge the receipt of your Lordship's despatch of the 25th March last, No. 132, and to state that, in pursuance of the Instructions it contains, the Bishop of Australia has been called to the Executive Council and has taken his seat. I had, in my Despatch of the 11th June last, No. 61, taken the liberty to represent the inexpediency, in my humble opinion, of admitting the Clergy to either of the Councils of the Colony. I can now only express a hope that, in instituting a form of Legislature for New South Wales differing from the present, that representation may have been favorably considered.

I have, &c.,
RICHD. BOURKE.

LORD GLENELG TO SIR RICHARD BOURKE.
(Despatch marked "Circular," per ship Mangles.)

Sir, Downing Street, 11th November, 1836.

11 Nov.
Military lands
to be vested in
officers of
ordnance.

I have the honor to transmit to you herewith for your information the copy of a Circular Despatch, together with its

* Note 164.

enclosures, which I have addressed to the Governors of those Colonies having Legislative Assemblies, upon the subject of vesting all Military Lands and Buildings in the Principal Officers of the Ordnance Department.

1836.
11 Nov.

You will have the goodness to report to me how far the Board of Ordnance already possesses powers over the Military property in the Colony under your Government, coextensive with those contained in the enclosed Draft of a proposed Bill; and you will lay before the Legislative Council the Draft of such an Ordinance for supplying deficiencies as will give effect to the object desired by the Master General and Board of Ordnance.

Instructions *re*
military works.

I have, &c.,
GLENELG.

[Enclosures.]

[Copies of these papers* are not available.]

SIR RICHARD BOURKÉ TO LORD GLENELG.
(Despatch No. 120, per ship Vestal.)

My Lord, Government House, 11 Novbr., 1836.

Having heard from various quarters, shortly after the arrival at this place of the Ship "Duchess of Northumberland" with Female Emigrants from Cork, that from thirty to forty of these women were of abandoned character and had been taken from the Streets and Penitentiary of Cork, and put on board to supply the vacancy occasioned by the absence of several women of a better description who declined coming out, I directed an enquiry to be made into the truth of these allegations, and appointed a Board for the purpose. I have the honor to transmit herewith the Report of the Board, with the evidence which was taken appended.

Inquiry *re*
undesirable
immigrants
per ship
Duchess of
Northumber-
land.

It is, I think, but too plain that many vile women were put on board by the Agents, one of whom, at least, appears to have had a direct interest in completing the number to its full amount. With this transaction, the Committee appears to have had no concern.

It appears further that, from the fact of one of the Agents having been allowed to Ship Cargo on his own account, the necessary space for the Emigrant's Baggage could not be procured in the Hold, and that inconvenience, if not ill-health, were the consequence of the cumbered state and insufficient ventilation of the Deck used by the women. It is right, however, to add that the Agent was misinformed as to the room required for the Emigrants' Baggage. But under every view of the case your Lordship will, I am sure, at once see the necessity of

Want of space
for baggage of
immigrants.

* Note 134.

1836.
11 Nov.

superseding an arrangement under which, both as to the numbers to be embarked and the space to be allowed for Baggage, an Agent may have an interest directly opposed to the public service.

Neglect in
outfitting ship.

It will be farther perceived that, owing to want of proper precaution, a family laboring under the effects of acute and contagious disease was allowed to embark; whilst proper means of occupying with advantage during the voyage the minds of the young Females were omitted in neglecting to put on board elementary School Books for those who required to be taught to read, Bibles, Prayer Books, some useful moral lessons and histories, and materials for work. The observations of the Surgeon Superintendent Huntley on these subjects, as well as on the propriety of discontinuing wine as a ration are well worthy of consideration, and need only to be brought to your Lordship's notice to ensure for the future a more careful arrangement.

Proposed
abolition of
wine as ration.

I have, &c.,

RICHD. BURKE.

P.S.—Since the foregoing Despatch was written the Letter dated the _____, a copy of which is now transmitted has been received by the Colonial Secretary from the Board whose Report I have forwarded. Your Lordship will perceive that, upon the authority of Mr. Richd. Jones a Merchant of this Place and a Member of Council, the cargo shipped by Mr. Marshall is stated at 116 Tons. This Letter contains also the statement of one of the Females shewing the manner of her introduction to Mr. Marshall. This is the young woman mentioned at p. 5 of the Report.

Cargo shipped
by emigration
agent.

[Enclosures.]

[Copies of these papers are not available.]

SIR RICHARD BURKE TO LORD GLENELG.

(Despatch No. 121, per ship Vestal.)

12 Nov.

My Lord, Government House, 12 Novr., 1836.

With reference to your Lordship's Despatch of the 13th April last, No. 142, upon the occupation of Port Phillip, and to my communication upon the same subject of the 15th Sept. last, in my Despatch No. 101, I have now the honor to inform Your Lordship that I have conferred with the Deputies from the association whose attendance I requested, and have received several applications from other Bodies and Individuals seeking Land at Port Phillip. The claims* of the Association made known to your Lordship by Mr. Mercer, and those of other Parties preferred to this Government, have been severally considered by the Executive

Negotiations
with Port
Phillip
association.

* Note 165.

Council, and I transmit herewith the Minutes of their Proceedings and other Papers upon these Subjects.

1836.
12 Nov.

The Minute No. 25 contains so full an exposition of the grounds* upon which the Council came to the decision therein recorded, as to leave little to be added in the way of explanation. I would briefly remark that, in refusing to allow to the Association the acquisition of Land at Port Phillip, unless by the process of public sale under the existing Regulations, the Council were influenced by a consideration of the actual state of a large portion of the Colony, in which Land is occupied in the same unauthorized manner as at Port Phillip. The occupiers might claim a Conveyance from the Crown with as much reason and upon the same terms as the Association claim for *their* usurpation. In acceding to all these demands, the System, under which the disposal by auction of vacant Crown Lands in New South Wales has hitherto been so successfully conducted, would be at once broken up, and several millions of acres, I believe I may say without exaggeration, would be required to satisfy the claims of those who have driven their Sheep and Cattle into remote and fertile districts of which they may boast to have been the first discoverers.

Decision of executive council against claims of association to land.

In allowing to the Association without any rigid scrutiny of the account, the monies† they expended whilst under the erroneous impression that the Land they prepared to occupy was not within the limits of this Government and that their Bargain with the Blacks was valid, the Council have treated that Body with great consideration. I believe the Association feel this to be the case, and would have been satisfied with the arrangement, had the Council consented to their last proposition, and given Land without a public sale, instead of allowing the value in a remission of the purchase money at an auction held under the terms of the Existing Regulations. The Council, however, could not, for the reasons already stated, depart from the principle by which its decision was governed, and your Lordship will probably receive a renewed application from the Company. I would strongly recommend that the decision of the Council be fully confirmed. Any relaxation will establish a precedent, of which the numerous occupants beyond the limits will not fail to avail themselves when the opportunity offers, as soon must be the case. Their claim to a similar Indulgence would then be irresistible. At present, they expect no preference when their Land shall be put up to sale. The claim of the Association on the score of improvements is merely nominal. These have not exceeded the erection of a temporary bark Hut, and the cultivation of a little Wheat for the Shepherds. It is probable that, when the Land

Remission of purchase money on land in compensation for expenditure.

Request for confirmation of decision.

Improvements by association at Port Phillip.

* Note 166.

† Marginal note.—£7,000.

1836.
12 Nov.

is divided and put up to sale, each will get that portion upon which his rude settlement has been formed.

General approval of decision by council.

Upon the whole I think the decision of the Council has not created any very bitter disappointment to the Company, and has been generally satisfactory to the rest of the Community. As a precedent, if confirmed by your Lordship, it will materially facilitate the adjustment of future claims when the Land to the Westward of Twofold Bay is declared open for location.

I have, &c.,

RICHD. BOURKE.

[Enclosures.]

[Copies of these papers will be found in a volume in series III.]

SIR RICHARD BOURKE TO LORD GLENELG.

(Despatch No. 122, per ship Vestal; acknowledged by Lord Glenelg, 24th July, 1837.)

15 Nov.

My Lord,

Government House, 15 Novr., 1836.

Return of T. L. Mitchell from exploring expedition.

I have the honor to inform Your Lordship of the return of the Surveyor General from the Exploring Expedition* upon which he proceeded last March. The accompanying Supplement† to the Government Gazette will present to Your Lordship an outline of his Travels. Major Mitchell has Established the correctness of the surmise of Captain Sturt that the Darling ran into the Murray, and he has traced upwards some part of the latter River from where it is joined by the Morumbidgee. He has also gone over and will be able to lay down and describe a very large extent of a rich and well watered Country deserving as he thinks the name of Australia Felix.‡ Copies of the Journals and Routes of this and the former Expedition will be forwarded to Your Lordship as soon as I shall receive them.

Junction of Darling and Murray rivers.

Exploration of "Australia Felix."

There is but one drawback upon the satisfaction with which the account of this Journey has been received by me. It results from a very unfortunate conflict with the Aboriginal Natives, in which I fear a considerable number of these unhappy Savages were slaughtered. The mention made by Major Mitchell of this transaction in his Report is so abrupt, and at the same time so alarming, as to have induced me to omit it in printing the Document. I informed him of my intention to do so, and at the same time that the matter must undergo an investigation before the Executive Council upon the arrival of his Party at Sydney. Major Mitchell has expressed his conviction of being able to satisfy the Council of the necessity for the measure he adopted. Having mentioned some particulars of the affair himself, considerable anxiety has been expressed by the Public on the subject,

Hostile encounter with natives.

* Note 79.

† Note 167.

‡ Note 168.

and it will be proper to make the result of the investigation known immediately on its conclusion. As the Party has not yet arrived from the Frontier, I have not thought it right to delay the announcement of the Surveyor General's return until I should have at the same time have been able to communicate the result of the proposed enquiry.

I have, &c.,
 RICHD. BOURKE.

1836.
 15 Nov.

SIR RICHARD BOURKE TO LORD GLENELG.

(Despatch No. 123, per ship Vestal.)

My Lord, Government House, 20 November, 1836.

20 Nov.

I have been honored with your Lordship's Despatch of the 1st March last, No. 119, desiring to know, at the instance of the Rt. Hon. The Secy. of State for Foreign affairs, whether there are, in my opinion, any objections to allowing Consuls or other commercial Agents of Foreign Powers to take up their residence in the Colony under my Government.

Absence of objections to consuls or agents for foreign powers.

In reply, I have the honor to inform your Lordship that I am not aware of any such objections.

I have, &c.,
 RICHD. BOURKE.

SIR RICHARD BOURKE TO LORD GLENELG.

(Despatch No. 124, per ship Vestal.)

My Lord, Government House, 21 Novbr., 1836.

21 Nov.

The Revd. J. J. Therry, who formerly received a Stipend from this Government as a Roman Catholic Chaplain, but was deprived of it in the year 1825 on being charged with acrimonious conduct towards some of the Ministers of the Church of England, has since made repeated applications for reinstatement in his former situation. In reply to one of these, Lord Aberdeen acquainted me, in a Despatch* written when the Right Revd. Dr. Polding was on the eve of proceeding to this Colony in the exercise of Episcopal authority, that no final decision could be come to "until after the arrival in New South Wales of Mr. Therry's Ecclesiastical Superior, and until a report should have been received from him not only on the state of the Roman Catholic clergy generally and 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."

Applications by Revd. J. J. Therry for reinstatement.

Necessity for report by right revd. J. B. Polding.

In conformity to the terms of that Despatch, I have now the honor to transmit three Communications from the Right Revd.

* Note 169.

1836.
21 Nov.

Memoir on
R.C. clergy and
population.

Dr. Polding, which will, I believe, be found to embrace all the objects contemplated by Lord Aberdeen. To the general Memoir on the subject of the Roman Catholic Clergy and Population, which was laid before the Legislative Council in May last and printed, I beg leave to call Your Lordship's attention as a clear and faithful statement of the circumstances and claims of a large and important section of this Community.

Opinion
re Revd.
J. J. Therry.

With regard to the particular case of Mr. Therry, Dr. Polding seems to entertain no doubt of the sufficiency of his authority over the Priesthood, and of Mr. Therry's acquiescence under it; and he further speaks in high terms of the meritorious conduct of that Clergyman for some time past. I have therefore been induced to restore him to the List of Roman Catholic Chaplains, paid by the Colony, subject to your Lordship's approval, which under the circumstances herein stated I trust I shall have the honor to receive.

Reappointment
of Revd.
J. J. Therry.

I have, &c.,

RICHD. BOURKE.

[Enclosure No. 1.]

[This was a printed copy of a letter from the Right Rev. Dr. Polding to Sir Richard Bourke, dated 6th May, 1836, which was printed in the "Votes and Proceedings" of the legislative council.]

[Enclosure No. 2.]

RIGHT REV. DR. POLDING TO COLONIAL SECRETARY.

Sir,

Sydney, 22nd August, 1836.

In reference to a communication I have had the honor to receive from His Excellency, relative to the state of the Roman Catholic Clergy in this Colony, requesting information on the part of the Home Government, I beg to be permitted to call attention to the statements respecting them, their arduous duties, their inadequacy to fulfil efficiently these duties by reason of their exceedingly limited number, embodied in my application for an additional number of Chaplains, dated 6th May, 1836.

Duties of R.C.
chaplains.

To the details therein contained, I have great pleasure in adding an acknowledgement of the great comfort I have derived from the zeal, submission, and general good conduct of the Clergy under my jurisdiction. The peculiar circumstances, in which the Reverend J. J. Therry had been placed, did not permit me even to allude to his labors in the Report and application I had the honor to address. I feel therefore cordial Satisfaction in having an opportunity to testify my deep sense of the value of his spiritual services. Tho' not remunerated for some time as Chaplain, I believe that circumstance has not diminished his zealous efforts to do good; and, Since my arrival, I have experienced on his part unqualified Submission and great anxiety to meet my wishes. Satisfied that the Revd. J. J. Therry will be amenable to my authority, and considering him to be a conscientiously upright, exemplary Clergyman, I earnestly recommend him to the favorable consideration of His Excellency, and that he may be reinstated on the list of the Roman Catholic Chaplains of New South Wales.

I have, &c.,

J. B. POLDING.

Testimony
in favour
of Revd.
J. J. Therry.

[Enclosure No. 3.]

1836.
21 Nov.

RIGHT REVD. DR. POLDING TO COLONIAL SECRETARY.

Sir, Sydney, 10th November, 1836.

In August last I had the honor to Submit to the consideration of His Excellency the Governor my opinion of the character and usefulness of the Reverend J. J. Therry for the information of the Secretary of State, in conformity with the Despatch dated December, 1834. As declaratory of the past and present disposition of the Reverend J. J. Therry, I place before His Excellency the enclosed copy of a document Signed by him, and deposited in my hands.

Transmission
of statement.

I have, &c.,
J. B. POLDING.

[Sub-enclosure.]

STATEMENT BY REVD. J. J. THERRY.

I CAN state conscientiously it has never been intentional on my part, if I have given trouble to His Majesty's Government.

Statement
by Revd.
J. J. Therry.

With respect to my future proceedings in reference to any claims I may have, or may deem to have, I shall be entirely guided by the counsels and wishes of my Bishop.

JOHN JOSEPH THERRY.

Sydney, 1st October, 1836.

SIR RICHARD BOURKE TO LORD GLENELG.

(Despatch No. 125, per ship Vestal; acknowledged by lord Glenelg. 24th July, 1837.)

My Lord, Government House, 22 Novr., 1836.

22 Nov.

In reply to your Lordship's Despatch of the 29th Febr'y. last, No. 118, transmitting the copy of a letter from Mr. James Reid of Newcastle in this Colony, in which I am accused of neglecting to consider certain charges brought by him against Mr. John Wighton a Magistrate of the Territory, and requiring my Report upon Mr. Reid's complaint, I have the honor to state that I conceived that Individual's communication to me to be totally unworthy of credit, and his accusation of Mr. Wighton to have been brought forward under the influence of a vindictive and discreditable feeling. That it was wholly untrue was subsequently established beyond a doubt by the verdict of a Jury; for, an action of libel having been brought against the Editor of the Sydney Gazette for the publication* to which Mr. Reid, in his Letter to your Lordship, alludes, and a plea of justification having been entered, so complete was the failure to establish the facts of which Mr. Wighton was accused, that damages to the amount of £500 were awarded to that gentleman.

Despatch
acknowledged.

Opinion *re*
allegations
by J. Reid.

Damages for
libel awarded
to J. Wighton.

That Your Lordship may judge what manner of man Mr. Reid himself is, I have the honor to transmit the copy of a Letter addressed to the Secretary of this Colony on the 22nd June, 1835, by the Law Officers of the Crown, representing the conduct of Mr. Reid in the most unfavorable point of view. Having

Letter *re*
conduct of
J. Reid.

1836.
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Reasons for
allegations
by J. Reid.

failed, when called upon, to furnish me with any satisfactory explanation, I removed him from the Commission of the Peace in the month of July following. His rupture with Wighton arose from the part taken by the latter in bringing to justice the Cattle Stealers, whose property Reid bought whilst they were in Gaol waiting trial, as stated in the Letter of the Law Officers, and his Communication to Your Lordship complaining of my conduct is dated about two months after his removal from the Magistracy, to which he had been appointed by my Predecessor.

I have, &c.,

RICHD. BOURKE.

[Enclosure.]

ATTORNEY-GENERAL KINCHELA AND SOLICITOR-GENERAL PLUNKETT
TO COLONIAL SECRETARY.

Sir,

Court House Chambers, 22nd June, 1835.

Report re
purchase of
land and cattle
by J. Reid
from E. Knox
when in gaol.

As circumstances have officially come to our knowledge that materially affect the character of Mr. Reid of Newcastle, who holds a commission of the Peace, we deem it our duty to make them known to you for the information of the Governor that His Excellency may take such Steps in respect to that Gentleman as he may consider expedient.

In the Month of January last, a person of the name of Ebenezer Knox was committed to the Gaol of Newcastle on a charge of Cattle Stealing, for which he was tried in the last Criminal Sittings of the Supreme Court and found Guilty. While he was confined in the Gaol of Newcastle, Mr. Reid made a contract with him for the sale of all his property in cattle and Land. The Deposition of George Collins herewith enclosed, states in detail the mode in which Mr. Reid went to the Gaol to make bargains with Knox and himself, he being then in Custody on the charge of Cattle Stealing also. It also Sets forth that Mr. Reid proposed that Knox should make over all his property to him in order to avoid confiscation to the Crown in the event of his being convicted, and on the understanding that, if he was not convicted, he was to have his property again.

Mr. Reid acknowledges having purchased the cattle of Knox and 300 Acres of Land, which he was possessed of, and that this Contract took place in Newcastle Gaol after the Committal of Knox, but alleges that it was a *Bona fide* Sale and as proof of this has forwarded the affidavits Stated in Margin.* But, notwithstanding we are not satisfied that it was a *Bona fide* Sale, George Collins was the principal Witness against Knox on the Trial, and the Jury by their Verdict have pronounced him a person worthy of credit and his deposition negatives it. Besides it appears by Mr. Reid's acknowledgment that two promissory notes were given by him for £121 each, one at Six Months, the other at nine Months, and left in the hands of Hewson, the Gaoler, and that they remained in his hands until Mr. Charles Henry Chambers, the attorney for Mr. Reid, threatened Law proceedings against Mr. Hewson if he did not deliver them up to him. Mr. Chambers got them up from Hewson by paying him (Hewson) the Sum of £10 for so doing; those notes

* Marginal note.—John B. Hewson and G. Hindson, 5th June, 1835.

have since been delivered up to the Attorney General (See letter of the Attorney General, dated June 19th, 1835); and it was at the instance of Mr. Reid that Mr. Chambers gave them up, which makes us believe that Mr. Reid had a controul over those Notes, which he could not have if paid over bona fide for goods sold.

But whether the Sale was bona fide or not, we think on Mr. Reid's own acknowledgement that his conduct in the transaction is so reprehensible and derogatory to the Character of a Magistrate that it is our duty to represent it to His Excellency the Governor. It is calculated to counteract the laudable exertions made by the other Magistrates of the Country to Check the Crime of Cattle Stealing, which has prevailed to an alarming extent; and it identifies him as a party in the Attempt to defraud the Crown of its rights by forfeiture.

In the last Term of the Supreme Court, The learned Judges visited an Attorney of the Court with the punishment of 3 Months' Suspension for taking an assignment of property from a person, committed for receiving Stolen goods (altho, it was in payment of Costs to be incurred in defending the Prisoner), and intimated that, if a Second offence of a Similar kind came before them, they would strike the Attorney off the Rolls. It is obvious that such an act is less excusable and more dangerous to the Public interests when committed by a Justice of the Peace than by an Attorney, because his example must have more influence and the administration of Justice is in his own hands.

In respect to Hewson, the Gaoler, who appears to be implicated in the transaction between Mr. Reid and Knox, The Attorney General has deemed it right to institute an investigation which he will report on when concluded for the Governor's information.

We have, &c.,

JOHN KINCHELA, Attorney General.
JOHN H. PLUNKETT, Sol. General.

[Sub-enclosures.]

LIST OF PAPERS TRANSMITTED RESPECTING MR. REID.

- No. 1.
Affidavit of George Collins, dated 23rd May, 1835.
do Michael Henderson, dated 21st April, 1835.
do Thomas Mayer, dated 20th April, 1835.
do John West, dated 21st April, 1835.
No. 2.
Letter from Mr. Reid to Attorney General, 21 April, 1835.
No. 3.
Affidavit of John B. Hewson, dated 5th June, 1835.
do George Hindson, dated 6th June, 1835.
No. 4.
Copy of Promissory note from J. Reid to Ebenezer Knox for £121.
do do do do £121.
Copy of receipt of E. Knox and G. Collins to J. Reid, Esquire, 5th Feby., 1833.

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Report re purchase of land and cattle by J. Reid from E. Knox when in gaol.

Suspension of attorney by judges for similar action.

Report intended re J. B. Hewson.

Papers transmitted re J. Reid.

[No. 1 a] AFFIDAVIT BY GEORGE COLLINS.

NEW SOUTH WALES, { GEORGE COLLINS, free (native of the Colony), hereby duly
to Wit. { Sworn, maketh oath and Saith:—
I was a hired Servant to Mr. Ebenezer Knox of Williams River
until January last.

Affidavit by G. Collins re purchase of land and live stock by J. Reid from E. Knox.

On January last, My Master, My Fellow Servant, Elson, and myself were committed to take our trials in the Supreme Court of this Colony for the Crime of Cattle Stealing.

We were committed for trial at the Court House, Paterson's Plains, on a Wednesday and were Sent into Maitland that night, where we remained and were forwarded to

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Affidavit by
G. Collins re
purchase of
land and live
stock by
J. Reid from
E. Knox.

Newcastle next day under charge of "Constable Cussen," and were there received into Gaol by the Gaoler and were put into double Irons that same night.

Knox was desirous to sell some of his Cattle in order to procure money enough to carry on his defence against the Crown, and accordingly, on the second or third day after our arrival at Newcastle, he requested the Gaoler to bring to him a person Commonly called Gentleman Smith, by which name he is generally known, but his proper name is John Smith. Knox told me he would send for the Gentleman as he thought the Gentleman was a Person who would buy them. Mr. Smith came to the Gaol, and Knox went and spoke to him, but he returned in about five minutes and said that Gentleman Smith would have nothing to do with the Cattle. The Gaoler then came to us and asked Knox if he wished to sell his Cattle; To which Knox answered, "Yes," he wished to Sell Some of them just to get him a Counsel to defend his case. The Gaoler then said to him you had better Sell Farm, Cattle and all. If I were you, I would take and sell the whole at once to get them out of the Way of Government, and, if you will do so, I will get you a man who will buy your Cattle. Knox asked who that was, to which the Gaoler replied that it was Mr. Reid the Magistrate. Mr. Knox then said, Well I will sell Mr. Reid nine or ten head, but I will not sell the farm nor any more Cattle.*

Hewson then said, well I'm going down to Mr. Reid's just now and I will bring him up to the Gaol. Mr. Hewson then went away and returned with Mr. Reid in about an hour or more. It was about noon. Mr. Hewson came to the door, which was opened by another Turn Key, and said, Knox Here is Mr. Reid now. Knox Said, well we had better go out and Speak to him, and he and I went out to Mr. Reid. The reason of his Saying *we* and of our *both* going out to him was on account of a conversation, which Knox had with me while the Gaoler was away. Knox said you had better sell some of your Cattle too and fee a Counsel. I said I did not see why I should sell any of my Cattle, for my friends would get me a Counsel. Knox then said you had better fee a Counsel for yourself and not be beholden to your friends. I am going to sell ten of my bullocks, and you had better sell ten of yours too. I was not perfectly decided what to do, but at last determined to sell some Bullocks; and, when Mr. Reid came, I went out with Knox to him. Mr. Reid, when we went out, was seated in the Gaol Office, and we were sent in beside him accompanied by the Gaoler (Hewson). Mr. Reid asked Knox if he had any cattle to sell. Knox said he had. Mr. Reid then said he wished to purchase some. Mr. Knox then Said he would Sell him ten head and Collins here will sell you nine or ten more. I said, Yes, I would sell him ten head. He then asked Knox how much he wanted for them, and Knox demanded two pound ten Shillings per Head, saying he wished to have enough to fee Counsel. Reid objected to the price, and the price was fixed for the Twenty head at Two pounds each, and Mr. Reid was to go and pick them himself, but they were to be Bullocks and not breeding cattle. Some conversation then occurred about the payment. Mr. Reid advised that the money Should be left in Hewson's hands, who was going to Sydney, and who would take us up along with him, and that the money could be paid to us in Sydney by Mr. Hewson.

After this was finished, Mr. Reid turned to Knox and said, Why Mr. Knox you had better Sell me your farm and all your Cattle together. Knox said he did not want to sell his farm, nor any more of his Cattle than would get him Money for his defence, and that he was not a bit afraid of not getting off. Mr. Reid then said to Mr. Knox, "Well I would advise you to make a kind of sale of them to me to keep them out of the hands of Government, and, if you get your liberty, you shall have both your Cattle and Farm back again; and, if you dont get clear, I will pay you for the Farm and Cattle," and said, if he wanted any more money to defend his case, all as he had to do was to send for it.

I am not sure whether the words he Said to me "*to make a kind of a sale of them to me*" or not, but it was an expression implying that the whole was to be made over in the meantime to Mr. Reid, and that such temporary Sale was only to hold good in the event of Mr. Knox's conviction; but, in the event of that not taking place, Cattle and Lands were to be returned to Mr. Knox. Mr. Hewson then said that would be the last thing he could do, for, if he were Convicted, Government would be Sure to get them. Knox then said he would do so then; there was some conversation then passed about the prices, but I cannot recollect what prices were fixed either for the farm or Cattle per head.

Mr. Reid then asked Mr. Knox to sign a paper, which he (Mr. Reid) had ready written out, saying, Well Mr. Knox you had better Sign this paper; but Knox refused to sign any paper about it, and Mr. Reid Said to him, you surely do not think that I would cheat you out of them or swindle you out of them, or some words to that effect. Mr. Knox said, no, I do not Suppose you would do so, I have always heard you called a very fair Gentleman. I am not the least afraid of that. Mr. Reid then said that, unless he had a paper Signed, he could not prevent Government from taking them and then again assured Mr. Knox that if he got clear, that everything should be given up to him again.

* *Marginal note.*—This conversation was carried on by Hewson and Knox through the barred window of our cell.

Knox again refused to sign any paper, and said he was perfectly assured of his (Mr. R.'s) faith, and that he was not in the least afraid of being convicted.

Mr. Reid then gave Mr. Knox some advice about a good counsel, and said he would advise him to have Mr. Therry, and he would send up a letter by Mr. Hewson to Mr. Therry for us (which Mr. Hewson got, and told Mr. Knox he had delivered it to Mr. Therry after our arrival). Mr. Reid then asked for our brands that he might pick out the fat Cattle, and we gave him E.F.K. C.S. and I gave him C.C.G. and C. as mine. Knox's man once told him to brand a single head of Cattle, when I was there, any more than I did. We were taken away before he went away and locked up. I never saw him since.

I swear that no paper was signed by Knox, making over the property or Cattle. Mr. Reid drew out one small paper for Mr. Knox and myself to sign for delivery of the ten head, we had each sold. Mr. Knox Signed it, and I put my mark to it. It was read over to us. I cant read; it was to get 10 of my Cattle and 10 of Mr. Knox's of any of the brands. Mr. Knox never said to me afterwards that he had signed papers in Gaol. I never heard him say so. I do not know if he has.

his
GEORGE X COLLINS,
mark.

Sworn at Sydney, this 23 May, 1835, before.—JOHN WIGHTON, Esqr.

[No. 1 b] AFFIDAVIT BY MICHAEL HENDERSON.

NEW SOUTH WALES, { MICHAEL HENDERSON, Esquire, Settler on the Williams River,
to Wit. { being duly Sworn, maketh Oath and Saith:—

I am aware that Mr. Reid, the Magistrate at Newcastle, has purchased all the Cattle of Ebenezer Knox and George Collins, who are about to stand their trials for Cattle Stealing; at least Mr. Reid informed me that he had purchased them all at Newcastle. I was at the late yard of Mr. Knox about 6 weeks ago, when Mr. Reid the Magistrate was branding these Cattle. There were about 80 or 90 head of Cattle branded during that day; and of that number there were at least 30 head of those Cattle, which bore one of the brands of George Collins, namely either C.C.G. or C. I am certain that there were at least that number, for Mr. Reid, after having finished the day's branding which he had done personally, came to my house in the evening to remain for the night. We talked about the transactions of the day, and he, pulling out the book in which he had taken the primary brands on each animal before placing his own Brand upon it, said that he believed that Collins had as many as Knox himself; and, after counting over the number of animals that he had branded, bearing the primary Brand of either C. G. or C. C., I rather think it was nearer forty head of those brands than thirty. I know the number was above thirty.

Affidavits re
branding of
cattle of
E. Knox and
G. Collins
by J. Reid.

There has been another branding of Mr. Knox's cattle Since by Mr. Reid's orders. I was to have been present but they did not send me word, but branded and sent away the Cattle without any one seeing them but Mr. Newton. I do not therefore know how many of Collins' were then branded.

MICHAEL HENDERSON.

Sworn at Windsor, this 21 day of April, 1835.—JOHN WIGHTON.

[No. 1 c] AFFIDAVIT BY THOMAS MAYER.

NEW SOUTH WALES, { THOMAS MAYER pr. York, 7 Years, assigned to Mr. Michael
to Wit. { Henderson, Williams River, being duly Sworn, Maketh affidavit
and Saith:—

I was at Mr. Knox's (late) farm about the beginning of March, where Mr. Reid the Magistrate of Newcastle was employed in branding the cattle of Mr. Knox and George Collins, who are at present in Gaol under a Charge of Cattle Stealing. I went there for the purpose of Seeing if there were any Cattle there with Knox's or Collins' Brand upon them, which belonged to any one whose Cattle I know, It having been proved in evidence that a Knox was a notorious Cattle Stealer and that he had numbers of Cattle belonging to other people.

I had heard that Mr. Reid had bought these Cattle off those Cattle Stealers in Newcastle Gaol, while they were on their way to Sydney to be tried for Cattle Stealing. I was at the Yard the whole day. I do not know how many of Collins' or Knox's Cattle Mr. Reid the Magistrate bought, but I know that he branded with his brand (G. R.) every animal that came into the Yard that had any of Collins' brand upon them. Collins' Brands are G. C. G. and C. and I think in fact I am sure he branded at least above two dozen of Collins' Cattle. I will swear that he branded above one dozen (12), but my Master and Mr. Reid took down the brand of every beast that was to be branded with G. R., before that Brand was placed upon it; Mr. Reid took and put down the primary Brands before he branded them with his own Brand. He took it into a little long square book with about a dozen leaves into it. He branded every beast himself.

In the first draft of Cattle that were taken away by Mr. Reid's Men, there were at least three of Collins' Cattle taken away by his orders. In the second draft that

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Affidavits *re*
branding of
cattle of
E. Knox and
G. Collins
by J. Reid.

went away about 10 days ago (last Friday Week), there were about four head of Collins' Cattle went away. John West was in the Yard and seemed averse to my looking at the Cattle, and said to Mr. Reid that Mr. Newton did not know any of his Cattle, and that I was there to claim all his Cattle running; that if I were out of the way that so many would not be claimed. I am well aware that, if I had not been there that day, Mr. Reid would have had possession of some animals that were Stolen.

I recognized two of Mr. Newton's that day, one bearing Collins' brand and the other unbranded. If there has been any branding since I have been there (and I know there has been), I am certain there must have been some beasts branded in Mr. Reid's name, that were not Knox's or Collins' property.

I know this from my knowledge of West's Character that he would take every opportunity of branding and getting out of the way, before I could know it, any beast that he thought or knew I would claim, if I were to be told of the branding or had been asked to be present. Mr. Reid is aware that I know all the cattle mostly on the run for he saw me point out all the Stolen Cattle the day that I was at the Yard. If he had been desirous of having the cattle examined before they were branded in his name, to see that they branded no Stolen Cattle, I would have gone to the Yard, had he requested me, and said when he had ordered them to brand again. He never told me he had ordered them to brand for him in his absence. The first branding was a pretty public one, several People and Cattle holders being at the Yard. I did not hear of the Second branding, nor do I know of any one being there. I am aware that a Second draft has been sent off to Newcastle, but no one was sent for to look them over or examine them that I know of.

THOMAS MAYER.

Sworn at Brandon, before me this 20th April, 1835.—JNO. WIGHTON, J.P.

[No. 1 d] AFFIDAVIT BY JOHN WEST.

NEW SOUTH WALES, { JOHN WEST, free Native, residing at Mr. Knox's farm, being
to Wit. { sworn, Saith:—

I was at Mr. Knox's (late) Yard, when Mr. Reid the Magistrate of Newcastle came there to brand my Master's and Collins' Cattle as his property. Mr. Reid told me he had gone to the Gaol at Newcastle, and had purchased all Knox's and Collins' cattle. He did not shew any authority or order to deliver them, but his man gave a verbal message from Collins that I was to deliver only Bullocks and no fat cows; but Mr. Reid came up himself afterwards and said he was to have them all, for he had bought them all. On the first day's branding, which was the beginning of March, there were branded about ninety head, which were branded by Mr. Reid, the Magistrate himself. Mr. Reid's brand is G. R. There were Ten head of those that were branded by Mr. Reid, which had Collins' Brands; there were I think three C. C., Three or four with a single G., and the rest had single C. There has been another branding since then by Mr. Reid's orders, who left us instructions to brand all the C. G. and C. C. Cattle we could get, and there have accordingly been branded five more, all having G. and all the property of Collins.

When Mr. Reid sent up his men for the first draft of cattle, there were Twenty head went away, and amongst these twenty head there were five of Collins' taken away by orders of Mr. Reid for him to kill at Newcastle. These first were not branded with Reid's brand.

Another lot (of these branded G. R.) has gone to Newcastle. There were twelve head altogether, and three of those were Collins'. I am not aware how many of Collins' Cattle Mr. Reid purchased, but he said he had bought and must have all.

There are ten of Collins' now in the Yard ready for branding, and the rest Knox's, to the Amount of Thirty.

There was no one present but ourselves when the last draft went away. Mr. Reid gave orders that Mr. Henderson might examine the Cattle before they were sent away, but he did not say any one else. He was aware that Mayer's was there to examine the Cattle to see that no other person's were taken away, but he did not tell us to send for him again, but told me to brand them, as I got them in and send them down as he sent for them. He told me to send all of Collins' that were fat.

JOHN WEST.

Sworn at Brandon before me, this 21st April, 1835.—JNO. WIGHTON, J.P.

[No. 2.] MR. J. REID TO ATTORNEY-GENERAL.

Sir,

Newcastle, 21st April, 1835.

I beg to call your attention to the following circumstances.

Statement by
J. Reid *re*
evidence
obtained
against cattle-
stealers.

In January last a Prisoner of the Crown, named Lennox, was brought from Sydney Gaol by Mr. Wighton, J.P., as an informer, and since that period he has been supported by the Cattle Association, of which Mr. Wighton is Chairman, and allowed to be at large, thereby encouraging him to give evidence against perhaps the innocent.

About the same period, two men named Collins and Knox were committed for Cattle Stealing, and on Friday last Mr. Wighton brought Collins from Sydney Gaol to give evidence against Knox, the association (as they are called) being desirous of convicting Knox.

1836.
22 Nov.

A Man of most infamous character at present in this Gaol has been offered money to give evidence against certain parties.

Statement by
J. Reid *re*
evidence
obtained
against cattle-
stealers.

Having heard such proceedings reprobated, I consider it my duty to make you acquainted with the fact in order that Justice may not be prevented by the evidence of such characters; indeed, if men are allowed to be taken about the country (after committal), human nature will always induce the infamous to save themselves if by Perjury.

I have, &c.,
J. REID, J.P.

[No. 3 a] AFFIDAVIT BY J. B. HEWSON.

NEWCASTLE, { I, JOHN BUTLER HEWSON, Gaoler of Newcastle, do swear that I was
to Wit. { present when Mr. Reid purchased the Cattle from Knox and Collins,
also the Farm from Knox, for the Sum of Two hundred and ninety
pounds, that is, two Cheques on the Commercial Bank for Twenty pounds each,
eight pounds to be paid a Free Servant of Knox's, and the balance Two hundred
and forty pounds in two bills at different dates. I witnessed the agreement at New-
castle as a bona fide sale, and Knox and Collins were satisfied. I also was present
when Mr. C. H. Chambers, Solicitor in Sydney, got Knox to sign a regular deed, and
I never said, if Knox was acquitted, Mr. Reid was to give him back his Farm and
Cattle, such agreement not having been made. I believe Knox would not have sold,
only he wanted money to pay Lawyers and Witnesses, as he considered himself inno-
cent of a felonious intent. I recollect Knox asking Mr. Reid to take over his
property in trust and return it to him if acquitted; to which Mr. Reid replied, no,
he would buy or not, as his Mr. Reid's name should not be mentioned in a dirty
transaction; after signing the papers in Sydney, Knox gave me the two notes to
keep, and which I brought back to Newcastle and did not deliver them up until
threatened with an Action by Mr. Chambers and a Written authority from Knox
to give them. I sent them to Sydney by my Wife, who told me she had given
them to Mr. Chambers, and that Mr. Chambers paid her the ten pounds Knox owed
me. I have known Knox many years, and never knew him as a Cattle Stealer. I
was District Constable and petty Constable for 7 or 8 years; and, had he been a
Noted Cattle Stealer, I would have heard it; and I do further Swear that Mr. Reid
did not induce or hold out encouragement to Knox to sell his farm or Cattle, but
that the same was done in an open and fair manner; and, from all I can learn, I
consider Mr. Reid has made a disadvantageous bargain.

Affidavits *re*
purchase of
cattle and land
by J. Reid
from E. Knox
and G. Collins.

J. B. HEWSON.

Sworn before me at Newcastle, this 5th day of June, 1835.—GEO. BROOKS, J.P.

I, John Butler Hewson, do further State that Collins was not present at every interview between Mr. Reid and Knox.

J. B. HEWSON.

Sworn before me at Newcastle, this fifth day of June, 1835.—GEO. BROOKS, J.P.

[No. 3 b] AFFIDAVIT BY G. HINDSON.

NEWCASTLE, { I, GEORGE HINDSON, Turnkey at Newcastle Gaol, do Swear that I was
to Wit. { present when Mr. Reid concluded the purchase of the Cattle from
Knox and Collins and also the Farm from Knox. I witnessed the
agreement in the presence of Knox and Collins, who were satisfied therewith. The
purchase money amounted to two hundred and ninety pounds. I saw Knox receive
two cheques on the Commercial bank for £20 each, and two promissory notes for
£121 each on the day of Sale, and which Knox delivered to Mr. Hewson the Gaoler
to take care of for him. I further Swear that Mr. Hewson had these two promissory
notes some considerable time after Knox had been removed to Sydney. I understand
the bargain to be a bona fide transaction.

GEO. HINDSON.

Sworn before me at Newcastle, this 6th day of June, 1835.—THOS. GIBSON, J.P.

[4 a] COPIES OF PROMISSORY NOTES.

Copies of
promissory
notes.

£121 Sterling.

Newcastle, 5th February, 1835.

Six Months after date, I promise to pay Ebenezer Knox or order the Sum of One hundred and twenty one pounds for value recd.

J. REID.

Payable at the Commercial Bank, Sydney.

£121 Sterling.

Newcastle, 5th February, 1835.

Nine Months after date, I promise to pay Ebenezer Knox or order the Sum of One hundred and twenty one pounds Sterling for value received.

J. REID.

Payable at the Commercial Bank, Sydney.

[4 b] COPIES OF RECEIPTS.

1836.
22 Nov.Copies of
receipts.

IN Re, Eben. Knox—

Received from C. H. Chambers, Esquire, two notes (for £121 each, one payable at Six months, the other at nine months after date, both dated 5th February, 1835) on behalf of the Government, upon which Mr. Chambers has certain demands on behalf of Money advanced to and for Said Ebenezer Knox (convicted of Felony at the last May Criminal Session of the Supreme Court), and I hereby agree on behalf of His Majesty that, out of the Amount of the said Notes when paid, all fair and just demands of Mr. Chambers shall be paid off and discharged.

JOHN KINCHELA, Attorney General.

Attorney General's Office, 8th June, 1835.

Received from James Reid, Esquire, of Newcastle, the Sum of £240 Sterling, for two hundred and fifty head of Cattle more or less, one Horse, one Dray, and ten pigs, branded E. K., some with K., others C. S., P. S., C. and G. C., now running on the farm Sold to Said James Reid this day, dated at Newcastle, this fifth day of February, 1835.

EBEN. KNOX,

his

GEO. X COLLINS.
mark.

Signed in presence.—J. B. HEWSON, GEO. HINDSON.

SIR RICHARD BOURKE TO LORD GLENELG.

(Despatch No. 126, per ship Vestal; acknowledged by lord Glenelg, 15th August, 1837.)

23 Nov.

My Lord,

Government House, 23 Novr., 1836.

Application by
E. Bunker for
land grant.

I have the honor to forward a Memorial from Mr. Eber Bunker praying for a grant of Land in pursuance of an application* made to General Darling in the year 1827, but which he complains was neglected by the Government of that day to the prejudice of his just claims.

The Memorialist, it appears, received a Grant of one thousand acres from Governor Macquarie. At the time stated in the Memorial, he applied to Governor Darling for an additional grant, but it appears, from a Memorandum on his application which is retained in the Colonial Secretary's Office, that it was laid aside in consequence of my Predecessor's being insufficiently acquainted with the applicant and his case to be induced to grant his request.

I have, &c.,

RICHD. BOURKE.

[Enclosure.]

[A copy of this memorial is not available.]

SIR RICHARD BOURKE TO LORD GLENELG.

(Despatch No. 127, per ship Vestal; acknowledged by lord Glenelg, 8th March, 1838.)

24 Nov.

My Lord,

Government House, 24 Novbr., 1836.

Despatch
acknowledged.

I have had the honor to receive Your Lordship's Despatch of the 7th May last, No. 152, transmitting the copy of a letter from the Board of Treasury enclosing a copy of one from

* Note 170.

the Commissioners of Audit on the accounts of the Colonial Treasurer of New South Wales, from which it appears that certain payments appearing in those accounts were not inserted in the Quarterly Returns of New Appointments and Special Payments.

1836.
24 Nov.
Queries
by audit
commissioners.

As no Copy has been sent of the List accompanying the Letter of the Commissrs. of Audit, I am not able to refer to the particular items, with a view to the Explanation of the cause of the omissions complained of. I have, however, instructed the officer entrusted with the preparation of the Quarterly Schedules to be careful to guard against any omissions which can lead to future complaints.

Inability
to reply.

I beg leave at the same time to point out to Your Lordship that no useful end can be answered by including in these Schedules the payments made in strict conformity to the yearly appropriation Act, which receives His Majesty's confirmation and is a standing record, more complete than any Return which can be transmitted, of the authority under which such payments are made.

Payments in
conformity with
appropriation
act.

For the reason before stated, I am unable to ascertain whether any of the omissions, now complained of, would come under the above head. Should this prove, however, to be the case, I would respectfully request the further instructions of His Majesty's Government, if it be expected that all the details of expenditure authorised by the Colonial Legislature should be recapitulated in the Schedules referred to.

Request for
instructions.

I have, &c.,

RICHD. BOURKE.

LORD GLENELG TO SIR RICHARD BOURKE.
(Despatch No. 229, per ship Prince George.)

Sir,

Downing Street, 25th Novr., 1836.

25 Nov.

I have received your Dispatch dated the 24th December last, No. 124, with which you have enclosed several Acts passed by the Legislative Council of New South Wales during that year. I subjoin a List of the dates and titles of those Acts and have received His Majesty's Commands to signify to you His Gracious confirmation and allowance of all the Acts enumerated in that List.

Allowance
of acts of
council.

I have read with regret one passage in your Dispatch of the 24th December, in which, with reference to the Post Office Act,

1836.
25 Nov.

Abuse of
official
franking of
letters.

you acquaint me that, notwithstanding the abuses which prevail on the subject of Official Franking, you have been unable to obtain the concurrence of certain official Members of your Council in the Enactments necessary for the prevention of these frauds upon the Revenue. It is, however, impossible that I should acquiesce in this defeat of your endeavours for the remedy of an evil of this nature.

Declaration
required *re*
legitimate use
of privilege
of franking
letters.

You, I am convinced, have not hazarded the statement you have made upon any light grounds, and therefore I must instruct you to acquaint every Gentleman possessing the privilege of franking Letters, not on his own private affairs but on the public service, to deliver in to you at the close of each six months a written assurance, to which his veracity and honor will be pledged, that he has taken every precaution in his power to prevent the use of his official privilege for any other purpose than that of exempting from postage Letters and Papers relating exclusively to the public service of the Colony, and that he believes that his Franks have been all employed for that purpose exclusively, or, in the event of any exception having come to his knowledge, that every such exception has been properly reported to yourself.

I am well convinced that there is no public officer in New South Wales, whose rank is such as to entitle him to the privilege of franking official Letters, to whose declaration, if conceived in such terms as these, you might not confidently look as a security against the wilful continuance of the frauds on the Revenue which you deprecate; and those Gentlemen will of course remember that they are responsible to His Majesty's Representative in the Colony for the use they may make of the powers vested in them in this respect by the Law, even though the terms of the Statute comprised no express reference to that responsibility.

Previous
allowance of
extension of
jury act.

With regard to the Act No. 25, for continuing for a limited time an Act for regulating the constitution of Juries, and for the Trial of Issues in certain cases in the Supreme Court of New South Wales, and to make further provision for trial by Jury, I have already in my Dispatch No. 86 of the 10th of December last signified to you His Majesty's allowance of that Enactment.

I am, &c.,

GLENELG.

[Enclosure.]

[*This was a list of the titles of the acts of council, 5 Wm. IV, Nos. 21 to 24, and 6 Wm. IV, Nos. 1 to 4 and 6 to 14.*]

SIR RICHARD BOURKE TO LORD GLENELG.

(Despatch No. 132, per ship Vestal; acknowledged by lord Glenelg. 24th June, 1837.)

1836.
29 Nov.

My Lord, Government House, 29th Novbr., 1836.

I have the honor to transmit the copy of a letter which I have received from the Bishop of Australia, recommending that nine additional Clergymen of the Church of England be appointed Chaplains and sent out to this Colony.

Transmission of letter from bishop.

The Bishop of Australia having satisfied me as to the expediency of making the appointments in question and of sending the Clergymen out in succession on board of Ships conveying prisoners in the manner and for the purposes His Lordship describes, I have only to recommend this application to Your Lordship's earliest attention. I may be permitted at the same time to congratulate Your Lordship upon the success which at so early a period has attended the measures adopted with Your Lordship's sanction for promoting the Building of Churches and providing for the maintenance of Ministers of Religion in New South Wales.

Approval of request for additional clergy.

Success of general church act.

I have, &c.,

RICHD. BOURKE.

[Enclosure.]

BISHOP OF AUSTRALIA TO SIR RICHARD BOURKE.

Sir, Sydney, 26th November, 1836.

I have the honor to acquaint Your Excellency with the progress which has been made in providing for the erection of Churches and Parsonages, and for the settlement of Clergymen under the provisions of the Act of Council, 7 Gul. IV, No. 3.

Progress in providing for erection of churches and parsonages.

At the following places, sums exceeding £300 have been subscribed, and the amount paid up:—

- 1, Bunonia; 2, Goulburn; 3, Richmond; 4, Mulgoa and South Creek; 5, East Maitland; 6, West Maitland; 7, Paterson; 8, Wittingham (St. Patrick's Plains), with Vane and Glendon.

In all the above mentioned towns and districts, the regular forms are in circulation to obtain the signatures of adults, setting forth their desire to attend the respective Churches, and these have already proceeded so successfully that I am authorized to say that in most instances the number of such signatures will be such as to secure to the clergyman an income of £200 per ann. under the second Clause of the Act, and in no case lower than £150.

For the present, it is my intention to connect Mulgoa with South Creek, and Vane and Glendon with Wittingham, that they may be respectively under the charge of the same clergyman; but I trust that, so soon as the progress of population shall have rendered their separation advisable, the inhabitants of the annexed parishes will not be debarred the benefit of the Act of Council in obtaining each a Stipend for its own Minister.

Grouping of parishes.

The Inhabitants of Queenbeyan, from the scattered state of the population not deeming that their general assemblage in one Church could be calculated upon, have preferred availing themselves for the present of the Fifth Section* of the Act to obtain the appointment of a Clergyman towards whose maintenance they engage to

Arrangement by settlers at Queenbeyan.

* Note 171.

1836.
29 Nov.

Collection of
contributions.

Additional
clergy required.

Request for
appointment
of clergy.

Boarding
schools
proposed at
Bungonia
and Mulgoa.

Proposed
passages
for clergy on
convict ships.

contribute a sum of one hundred pounds annually, and to provide a residence. The inhabitants of Brisbane Water, Cook's River, Prospect, Morpeth, Invermein, and O'Connell Plains are also engaged in providing contributions agreeably to the Act of Council, and I trust shortly to be enabled to report to Your Excellency the success of their exertions.

Agreeably therefore to the present statement, it will be requisite that *eight* additional Clergymen should be provided for those Stations where Churches are to be erected, and one for Queen-beyan, or *nine* in all; and there is every prospect of an equal additional number being required in the course of the ensuing year.

I have therefore the honor of requesting that your Excellency will favor me by making a communication to the Secretary of State, with a view to obtain the appointment by His Lordship of the required number of Clergymen. Sensible as I am of the importance which His Lordship attaches to the effective performance of the Clerical Offices, and consequently to the becoming maintenance of the Clerical Character, it is unnecessary that I should employ any solicitation to secure the selection of Ministers duly qualified by their acquirements and Character, and who will laboriously devote themselves to the work to which they are ordained. But I may venture to observe that, in watching over the establishment of the Church in this Colony, I have no one object so much at heart as to obtain the services of fellow laborers animated by that spirit of devotedness, which may give them a hold upon the affections of the people and a salutary influence over their conduct.

In the cases of the appointments for Bungonia and Mulgoa, I beg to prefer a request that the individuals selected may be qualified to conduct Boarding Schools, which the inhabitants are very anxious to have established, and for which they are making preparation.

In addition, I have only to submit that, if an arrangement could be made for granting a passage to two of these clergymen and their families on board of each of the prison Ships which may sail from England next in succession after they receive the appointment, I am persuaded that great benefit would accrue to the convicts from the opportunity, which would thus be afforded of imparting religious instruction during the Voyage, and a deficiency, which is now sensibly felt and much lamented, would be remedied at a very moderate expence. I propose that *two* Clergymen should be placed in each Ship from a conviction that among so many prisoners there will be found a sufficiency of useful employment for them; and, were one only to arrive by each such opportunity, the time occupied in sending them all out would be so considerable as to produce much evil and inconvenience here, the want of additional Clergymen being so urgent that it cannot be too Speedily supplied.

I have, &c.,
W. G. AUSTRALIA.

LORD GLENELG TO SIR RICHARD BOURKE.
(Despatch No. 230, per ship Prince George.)

30 Nov.

Sir,

Downing Street, 30th November, 1836.

Despatch
acknowledged.

I have received your Despatch No. 39 of the 18th March last, reporting the loss of the Convict Ship "Hive" and the expenditure of £435 10s. in removing to Sydney the Prisoners and Stores saved from the Wreck.

Having communicated your Despatch and its enclosures to the Lords Commissioners of the Treasury, their Lordships have informed me that the sum of £435 10s. will be deducted from the claim, which the Owners of the Hive have on the Government for her Freight, and will be paid over to Mr. Barnard to be placed to the credit of the Colony under your Government.

1836.
30 Nov.
Decision re
expenditure
caused by
wreck of ship
Hive.

I have, therefore, to desire that you will cause the amount recovered to be replaced to the credit of the Fund from which the expenses reported in your Despatch were defrayed.

I have, &c.,
GLENELG.

LORD GLENELG TO SIR RICHARD BOURKE.
(Despatch No. 231, per ship Prince George.)

Sir, Downing Street, 30th November, 1836.

I have the honor to request that you will inform Samuel Small, who holds an office in the Dock Yard at Sydney, that I have received his letter of the 20th of July last, in which he solicits to be removed to a more lucrative situation; but that I am unable to hold out to him any prospect of my having it in my power to confer on him an appointment of greater emolument than that which he now fills.

Inability to
grant request
of S. Small.

I have, &c.,
GLENELG.

SIR RICHARD BOURKE TO LORD GLENELG.
(Despatch No. 133, per ship Vestal; acknowledged by lord Glenelg. 23rd July, 1837.)

My Lord, Government House, 30 Novr., 1836.

I have the honor to transmit the copy of a letter received by my Military Secretary from the Deputy Inspector General of Hospitals, in which that officer states his having recommended the appointment of Assistant Surgeons from Army Half-pay to the charge of the General and Convict Hospitals in this Colony, at a rate of pay lower than that which is now issued to the Colonial Medical Officers.

Proposed
appointment
of military
surgeons on
half pay.

This arrangement having, I believe, been proposed by me to the Deputy Inspector General in conversation, He may have thought himself justified in submitting it for the consideration of the Director General without that official reference to me, which his instructions prescribe; but, lest Mr. Thompson's omission of this part of his duty should prevent or delay the adoption of the measure, I beg leave to acquaint Your Lordship that it has my full concurrence.

Approval of
Sir R. Bourke.

1836.
30 Nov.

Absence of
reports from
J. V. Thompson.

I regret to say that Mr. Thompson has not as yet presented any distinct and comprehensive arrangement for the general establishment and maintenance of Hospitals in this Colony, nor laid before me the Reports which his Instructions require, chiefly, I apprehend from the infirm state of health under which he has been for some time suffering. At the close of the year, I hope to have some valid reason for believing that his appointment has fulfilled the objects of His Majesty's Government in making it.

I have, &c.,

RICHD. BOURKE.

[Enclosure.]

[A copy of this letter is not available.]

LORD GLENELG TO SIR RICHARD BOURKE.
(Despatch No. 233, per ship Prince George.)

1 Dec.
Despatches
acknowledged.

Sir,

Downing Street, 1st December, 1836.

I have received your dispatches of the 11th June, No. 61, and of the 18th June, No. 69, reporting the arrival and installation of the Bishop of Australia, and adverting to his legal inability to take his seat in either of the Councils owing to the revocation of the Charter by which the Archdeaconry of New South Wales was instituted and the absence of any warrant appointing the Bishop to the Seat in the Councils formerly occupied by him as Archdeacon.

I have also received the letter of the 16 June from the Bishop, transmitted in your despatch of 18th of that month, in which he applies to me for the necessary authority to resume his position in the Council. I entirely concur with you in the general opinion which you express as to the inexpediency of a Clergyman of any denomination in the Colony being placed in a position, which involves him in the contention of political assemblies; and I am happy to have received a letter from the Bishop himself shortly before he left England, a Copy of which was transmitted to you in my despatch of 12th May last, in which he intimates that, altho' owing to the expiration of the New South Wales Act being then so near at hand, it appeared scarcely necessary to propose any alteration as to his Seat in the Legislative Council while that act continued to subsist, yet in the event of any alteration taking place, whereby the nature and functions of the Legislative Council should be materially changed, he entertained serious doubts whether the continuance of the Bishop as a Member would contribute to the public advantage.

Approval of
objections
to clergy as
members of
councils.

At that time I fully anticipated that a new act for the Government of New South Wales would have been passed during the last session of Parliament; and, under these circumstances, I thought it desirable that no immediate change should take place in the constitution of the existing Councils, and that, during the short interval which would elapse before the new act would come into operation, the Bishop should retain precisely the same situation in all respects in the Colony which he had previously filled as Archdeacon, but that neither the Bishop nor a Clergyman of any denomination should have a seat in either of the Councils to be constituted under that act.

1836.
1 Dec.

Temporary continuance of bishop as member of council.

In conformity with this opinion, I transmitted to you, in my despatch No. 132 of 25 March last, an additional Instruction under the Royal Sign Manual appointing the Bishop a Member of the Executive Council, and it was only by an accidental inadvertence that the proper Instrument was not transmitted to you to enable him to retain his seat for the present in the Legislative Council.

Appointment of bishop to executive council.

The New South Wales Act, as you are already aware, has been unexpectedly continued for another year, and the Bishop now claims from me the fulfillment of what he considers to have been an engagement on my part that his seat should be continued to him in the existing Legislative Council. Such having certainly been my intention under the circumstances to which I have adverted, and that intention having been expressed to the Bishop, I feel bound, notwithstanding the postponement of the new act, to admit the claim which he has advanced, and I herewith transmit to you the Warrant appointing the Bishop to a Seat in the existing Legislative Council.

Claim by bishop to seat in legislative council.

Warrant for appointment of bishop.

I cannot, however, but express my regret that so much importance should have been attached by the Bishop to what I should be disposed to consider rather as an impediment than an advantage to the beneficial exercise of those high duties with which he is entrusted.

Regret at claim by bishop.

I should be most unwilling to believe that the office which he holds and the functions attached to that office could suffer any diminution in public estimation by their separation from political duties; and I cannot therefore admit, as the Bishop appears to intimate, that, even had he at once been omitted from the Council without waiting for the expiration of the existing Act, I could possibly have been considered as having exposed him personally to an unmerited forfeiture of a lawful right or as having exposed the Church of England and his sacred office at once to what in the eyes of the world would have been an apparent degradation.

1836.

1 Dec.

Approval of
precedence
granted to
bishop.

I fully approve of the course, which you adopted in giving the Bishop the same precedence which he formerly held; and I feel the strongest confidence that nothing will be wanting on your part to insure to him that respect and influence, which are essential to the efficient discharge of his sacred functions, and to which his character and station alike entitle him.

I request that you will communicate a copy of this despatch to the Bishop.

I have, &c.,

GLENELG.

[Enclosure.]

[A copy of this warrant will be found in a volume in series IV.]

SIR RICHARD BOURKE TO LORD GLENELG.

(Despatch No. 134, per ship Vestal; acknowledged by lord Glenelg. 28th July, 1837.)

My Lord,

Government House, 1 Decr., 1836.

Upon receipt of your Lordship's Despatch of the 9th May last, No. 153, announcing the discontinuance of the practice hitherto allowed of remitting private funds from England to this Colony through the Colonial Agent, I instituted the enquiry directed by Your Lordship for the purpose of ascertaining what payments to the Agent to meet the expences of the Colony would in consequence become necessary. Your Lordship will perceive, from the accompanying Copy of a letter from the Auditor General, that a Balance deemed sufficient for immediate purposes remains in the Agent's hands. It is, however, submitted that, at any future time when payments for the Colony become necessary, the most convenient arrangement for His Majesty's Government and the local will be to authorize an advance to the Agent from the British Treasury, the amount of such advances being repaid upon advice into the Military Chest at this Station from the Colonial Funds. In this manner the Military Chest will be from time to time recruited by the whole amount of such sums of money as the Business of the Colony requires to be expended in England, and the necessity for remitting specie to the Colony *pro tanto* diminished.

I have, &c.,

RICHD. BOURKE.

[Enclosure.]

AUDITOR-GENERAL LITHGOW TO COLONIAL SECRETARY.

Sir,

Audit Office, Sydney, 20th November, 1836.

I have been honored by the receipt of your Letter No. 314 of the 27th October last, requesting me to report whether any necessity at present exists for supplying the Colonial Agent with funds for defraying expences incurred in England on Account of the Colony.

Inquiry re
amount
required for
payments by
colonial agent.

Proposed
system for
providing funds
for colonial
agent.

with reference to the discontinuance of the practice of receiving Money in London, from private Individuals, for the purpose of an equal sum being issued in this Colony.

1836.
1 Dec.

In reply, I have the honor of acquainting you, that the Funds for this source deposited in the Agent General's Hands of late years have not been considerable, the amount in the following years having been as under, Viz. :—

Annual amount of private remittances by colonial agent.

1833, £733; 1834, £590 5s. 6d.; 1835, £878;

and that the Balance in his hands on account of the Colony on the 31st December, 1835, was, as Stated in his account to that date, £881 7s. 6d.

Balance in hands of agent.

I would beg leave to submit that, if an arrangement could be made by which the Colonial Agent General Should be furnished by His Majesty's Treasury from time to time with the Funds necessary to enable him to pay expences duly incurred on Account of the Colony, as they fall due, and Instructions given to the Commissariat Officer in charge to receive the Amount of such advances into the Military Chest here, according to the course which might be considered the most advisable by H.M. Government, it might supersede the necessity of making remittances from this Colony to the Colonial Agent, and at the same time render it unnecessary to furnish him with greater sums in advance, than might be absolutely requisite to cover the Disbursements, which he may be instructed to Make.

Proposed system for providing funds for colonial agent.

I have, &c.,

WM. LITHGOW, Audt. General.

SIR RICHARD BOURKE TO LORD GLENELG.

(Despatch No. 135, per ship Vestal; acknowledged by lord Glenelg, 25th July, 1837.)

My Lord,

Government House, 2 Decbr., 1836.

2 Dec.

In my Despatch of the 9th Sept. last, No. 95, I had the honor to submit to your Lordship the claim of Mr. Kinchela to such a permanent appointment as would, without obstructing the public service by reason of his bodily infirmity, compensate as far as possible for the recent loss of his office of Attorney General. I stated at the same time that, having rendered essential service as Puisne Judge on the Bench of this Colony since the absence of Chief Justice Forbes, Mr. Kinchela's deafness had thus proved not wholly to disqualify him for the judicial office.

Claim by J. Kinchela to appointment.

Having lately understood that a vacancy is not unlikely to occur on the Bench of Van Diemen's Land, I take the liberty of recalling Your Lordship's attention to the situation of Mr. Kinchela, confident that, if circumstances admit of his being employed in that Colony when the return of Mr. Forbes shall deprive him of employment and subsistence here, Your Lordship will not be displeased at my having thus suggested the means of providing for an old and meritorious public servant.

Proposed appointment as judge in Tasmania.

1836.
2 Dec.

Recommend-
ation for
financial
employment.

I beg leave to observe further that, if circumstances should prevent Mr. Kinchela's receiving a judicial appointment, any employment connected with Finance would be well suited to his diligent and exact official habits; and I cannot doubt that any such office, if not very much below his reasonable expectation in point of emolument, would be gratefully accepted by him.

I have, &c.,

RICHD. BOURKE.

LORD GLENELG TO SIR RICHARD BOURKE.

(Despatch No. 234, per ship Prince George.)

3 Dec.

Sir,

Downing Street, 3d December, 1836.

Refusal of
commutation
of pension for
F. Allman.

I have the honor to acknowledge the receipt of your despatch No. 54 of the 12th May last, enclosing a Memorial from Captain Allman, a retired Military Officer, praying that he may be allowed to commute a Pension of £100, which he received, for an equivalent at ten years' purchase, in land to be granted to him at a Minimum price. In my despatch No. 191 of the 19th of August last, I felt compelled to decline an application of a similar nature from Lieut. Ogilvie, R.N., and I regret that I can only express to you my inability to comply with Captain Allman's request.

I have, &c.,

GLENELG.

LORD GLENELG TO SIR RICHARD BOURKE.

(Despatch No. 236, per ship Prince George.)

4 Dec.

Sir,

Downing Street, 4th December, 1836.

Application for
assignment of
convicts to
ordnance
department.

The Master General and Board of Ordnance having brought under my consideration the question of ensuring to their Officers in New South Wales an adequate supply of Convict labour for the due performance of the duties entrusted to them, I think it right to inform you that I am of opinion that, as the Convicts are removed to the Colony and in a great measure sustained there at the expense of this Kingdom, it is right that whatever advantage may arise from their labour should accrue to the British, rather than to the Colonial Treasury. The labour, however, of the more refractory Convicts, who may be condemned to work in the chain gangs, was under the Treasury arrangement of 1834 guaranteed to the Colony exclusively, in consideration of the transfer to the Colonial Chest of the charge of the Police and Gaols. It is not my purpose to interfere with that arrangement; but you will have the goodness to understand

that, in distributing the services of the other Convicts, the demands of the Ordnance officers for public works are to be satisfied in preference to those of the Civil Government or of private Settlers.

I have, &c.,

GLENELG.

1836.
4 Dec.

Convicts to be assigned for public works.

LORD GLENELG TO SIR RICHARD BOURKE.
(Despatch No. 237, per ship Prince George.)

Sir, Downing Street, 10th December, 1836.

10 Dec.

In my despatch No. 106 of the 5th of February last, I drew your attention to certain suggestions, contained in a paper received from the "Ladies of the British Society," which had been previously transmitted to you by Mr. Secretary Spring Rice, and which suggestions it was conceived might be usefully adopted with a view to the improvement of the moral condition of the Female Convicts in New South Wales, as the plan pursued by the Society in question had been found eminently beneficial in its effect on Female Prisoners in this country. Since the date of my last despatch, my attention has been more particularly directed to the condition of the Female Convicts in New South Wales, not only with reference to the general question of Secondary Punishment, but also as regards the moral effect produced by the operation of the system on the Convicts themselves and on the Society in which they live.

Problems of moral improvement of female convicts.

The last detailed report on the state of the Female Factory at Parramatta, which I find amongst the records of this Department, is contained in Sir R. Darling's dispatches of the 18th of February, 1829, and in the enclosure to that despatch. The subject was again referred to in Sir R. Darling's subsequent dispatches of 30th December, 1829, and 14th July, 1830; but I do not find that, since that period, any detailed Report of the state of the Factory has been transmitted from the Colony. The number of Women, stated by Sir R. Darling in his despatch of 18th February, 1829, to have been in the Factory on the 31st December preceding, was 537, a number which he represented, and apparently on very satisfactory grounds, to be inconveniently large, and such as to preclude the most efficient arrangement being carried into effect for the internal regulation of the Establishment. His proposal to enlarge the Building in order to obviate the disadvantages experienced from the number of inmates was not sanctioned by the Secretary of State, but measures were subsequently taken on the recommendation of Sir R. Darling for reducing their number, the result of which was so far successful, that he was enabled to report on the 14th of

Reports received re female factory.

Reduction in number of inmates.

1836.
10 Dec.

Adoption of
measures for
reform.

July, 1830, that there were then only 400 Women in the Factory. From the Report of the Managing Committee contained in the despatch of 18 February, 1829, it appeared that active means were then adopted for the employment and the moral improvement of these Convicts, and that much valuable assistance was rendered in this respect by a Committee of Ladies, who had directed their attention to this important object.

Latest return
of number of
inmates.

From the Blue book of Your Government, which has recently been received from you, I perceive that, on the 31st of December, 1835, the number of Female Convicts in the Factory amounted to no less than 646, a number considerably exceeding that which was found to be inconveniently large in 1828. Deeply impressed with the importance of rendering the existing system of transportation as effectual as possible for the reformation of the Offenders, and sensible how great must be the effect on the general interests of the Colony of the character and habits of the Females, who after a limited term of servitude acquire a permanent settlement among the free Inhabitants, I feel it an imperative duty to leave no means untried, by which the moral discipline, to which they are subjected while convicts, may be rendered as effectual as possible. I cannot entertain a doubt that you fully participate in the views which His Majesty's Government entertain on this subject; and I am therefore anxious to assure you of my cordial assistance in carrying into effect such measures as may appear to be most conducive to the end in view. The great improvements which have of late years been adopted in our system of Prison discipline in England, though still probably capable of being carried to a further extent, ought undoubtedly to be introduced into all our Colonial Possessions so far as the influence of the Government is available for this purpose; but in no place ought they to be more zealously pursued than in those Colonies to which so large a portion of our Criminals are annually sent.

Unfavorable
reports received
re factory.

Without having it in my power to communicate to you any specific statement on the actual condition of the Factory of Paramatta, I cannot refrain from informing you that reports most unfavorable to its discipline and moral superintendence have reached me from various quarters and it is with regret that I have been unable on any certain authority to satisfy myself that I could reject such reports as unfounded, or to remove the impression, which is gaining ground in this Country, that sufficient care has not been bestowed by the Colonial Authorities on the internal condition of the establishment. I have therefore to request that, at your earliest convenience, you will furnish me with a full and detailed Report of the present state of the

Full report
required.

Factory, including the number of Convicts which it contains, their classification, employment, means of moral and religious instruction, and the rules and regulations under which it is conducted, the names of the Clergymen by whom it is attended, and the days and hours of their attendance, together with any other particulars which may occur to you as useful to be communicated. I am anxious also to be informed of the nature of the supervision and control under which the Matron and officers of the Establishment discharge their duties, and whether the managing Committee or the Committee of Ladies, which existed in 1828, continue to render their assistance in promoting the good order and improvement of the inmates. I have also to request that you will report to me how far you consider the present officers of the Establishment qualified, in regard to moral conduct, as in other respects, for the efficient performance of the responsible and important duties entrusted to them.

I have, &c.,
GLENELG.

1836.
10 Dec.
Full report
required.

LORD GLENELG TO SIR RICHARD BOURKE.

(Despatch marked "Separate and Confidential," per ship
Prince George.)

Sir, Downing Street, 10th December, 1836.

In my despatch of this date I have adverted to some Reports which have reached me unfavorable to the condition of the Female Factory at Paramatta. I have been unwilling in a Public despatch to refer to mere rumours affecting the character of any Individual, but I feel it my duty to inform you confidentially that it has been represented to me that the Husband and family of the Matron of that Establishment are not, from their habits or character, calculated to secure to the Office of the Matron that respect and deference without which her superintendence must be very inefficient.

Reports
received *re*
family of
matron of
female factory.

In Sir R. Darling's despatch and in the Report from the Managing Committee transmitted by him in 1829, I find Mrs. Gordon spoken of in Strong terms of approbation, and I am therefore very unwilling to believe that any conduct would be countenanced or tolerated by her, involving a breach of that morality or decorum which, in the situation she occupies, it is more especially incumbent on her to maintain. I must, however, express my opinion that, even should her own conduct have been uniformly correct, any open misconduct on the part of any Member of her family residing with her in the Factory would be a disqualification for the discharge of her responsible duties.

Previous report
re matron.

Effect of
family's
conduct on
matron.

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10 Dec.

and as it would necessarily tend to diminish and neutralize the influence which it is most essential she should actively exert in discountenancing vice and immorality of every description among those placed under her charge.

I am confident that I have done all that is necessary in thus calling your attention to this subject, and I shall be much gratified to receive from you an assurance that there is no foundation for any such reports as those which have reached me. Should, however, the contrary unfortunately prove to be the case, or should you be of opinion that a change of superintendence is necessary in order to put the establishment on a better footing, I should feel it my duty to place at the Head of the Factory as Matron a person qualified by recent experience in this Country, as well as by education and character, to undertake the office.

I have, &c.,
GLENELG.

Proposal for
appointment
of matron
from England.

LORD GLENELG TO SIR RICHARD BOURKE.

(Despatch No. 238, per ship Prince George; acknowledged by Sir Richard Bourke, 12th September, 1837.)

Sir, Downing Street, 10th December, 1836.

I have the honor to transmit to you a copy of a letter from the Secretary to the Treasury enclosing a Memorial from Thomas McConnell, who appears to have served for some time in the mounted Police in New South Wales, praying to be restored to the Chelsea Pension list in consequence of his having been removed from the Police, and I have to request that you will favor me with a Report on the circumstances of this case.

I have, &c.,
GLENELG.

Transmission
of memorial.

Report
required.

[Enclosure.]

MR. A. Y. SPEARMAN TO UNDER SECRETARY STEPHEN.

Sir, Treasury Chambers, 30th Nov., 1836.

I am directed by the Lords Commissioners of His Majesty's Treasury to transmit the accompanying application with its enclosures from Mr. Thomas McConnell to be restored to the Chelsea pension List, and to request you will lay the same before Lord Glenelg for such directions as His Lordship may think fit to give thereon.

I am, &c.,
A. Y. SPEARMAN.

[Sub-enclosure.]

THE HUMBLE PETITION OF THOMAS MCCONNELL.

To the Honble. The Lords Commrs. of His Majesty's Treasury.
Sheweth,

That your Petitioner was District Constable, Lane Cove, and convicted at the last sittings of the Supreme Court for shooting at one Mary Ann Warne and sentenced to six months' imprisonment.

Petition by
T. McConnell
to be restored
to Chelsea
pension list.

That your Petitioner faithfully served His Majesty 21 years, ten of which he was in the 5th Dragoon Guards, and in active service in the Peninsula during four years of that time. Your Petitioner was discharged on the reduction in 1818, not being sufficient height for that Regiment.

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10 Dec.

Petition by
T. McConnell
to be restored
to Chelsea
pension list.

That your Petitioner subsequently joined His Majesty's 48th Regiment, and on his arrival in the Colony was attached to the Governor's Body Guard, in which he was Eleven years a non-commissioned officer, ten as Serjeant.

That your Petitioner understands his Pension has been forfeited; but, on account of long servitude, large family, and the high testimonials of character hereto annexed, Petitioner hopes your Lordships will take his case into your merciful consideration, and restore to him the support of himself and family, earned, he humbly thinks, by a life spent in the service of his country.

And your Petitioner as in duty bound will ever pray.

New South Wales, Sydney, 15th Feby., 1836. [Unsigncd.]

[Testimonials were attached from Stephen Gordon, capt., 5th dragoon guards; Arthur Gordon, lt. col., 5th dragoon guards; R. Stirling, A.D.C.; J. H. Wild, late lieut. and adjt., 48th regt.; J. T. Campbell; and H. T. Wilson.]

LORD GLENELG TO SIR RICHARD BOURKE.

(Despatch marked "Separate and Confidential," per ship Prince George.)

Sir, Downing Street, 10th December, 1836.

I have received your despatch of the 25th July last marked "Separate and Confidential," in which you recommended that I should abstain from taking any step with reference to the Seat of the Bishop of Australia in either of the Colonial Councils, until you should have fully communicated to me certain information referred to in your despatch.

Despatch
acknowledged.

If I had felt that the continuance of the Bishop in the existing Legislative Councils was now a question open for my consideration, I should have willingly suspended my decision on his claim until I had received your intended communication; but you will have learnt from my despatch of this date that the Bishop was himself informed, before he left England, that it was my intention that he should retain his seat in the Councils until the expiration of the existing New South Wales Act; and, as the nonfulfilment of this intention as it respects the Legislative Council arose from an accidental inadvertence, I do not think any subsequent occurrence of the nature, to which you advert, ought to induce me to withhold from him the authority which he claims to enable him to resume his seat as a Member of that Council.

Inability to
refuse seat
for bishop in
councils.

I trust I shall be enabled early in the ensuing Session to transmit to you a new act for the Government of the Colony; and, when that shall come into operation, I shall not hesitate to act with reference to this subject in accordance with the opinion which you have expressed.

I have, &c.,

GLENELG.

LORD GLENELG TO SIR RICHARD BOURKE.
(Despatch No. 239, per ship Prince George.)

Sir, Downing Street, 10th December, 1836.

I have received your despatch No. 70 of 1st July last, with which you have forwarded to me the application of Mr. T. C. Harington to be promoted to the Office of Colonial Secretary on the retirement of Mr. McLeay.

I have also received from Mr. Harington a letter, dated the 18th June, in which he has enclosed copies of the same papers.

You will have the goodness to acquaint Mr. Harington that the terms in which his letters are written have not failed to impress me with a favorable opinion of his feelings and character; but that I am totally unable to comply with his request as Mr. Thomson's appointment has already been made.

You will, however, assure Mr. Harington that I would not have recommended Mr. Thomson to The King for that office, if his promotion could with any truth or reason have been supposed to justify any surmise unfavorable to the official conduct or personal character of Mr. Harington. I however consider any such surmise as most improbable, as well as ingenious, because the rule of succession by seniority in public Departments has never been understood as applying and could not without manifest inconvenience be applied to a vacancy in the principal office.

I have, &c.,

GLENELG.

LORD GLENELG TO SIR RICHARD BOURKE.
(Despatch No. 240, per ship Prince George.)

Sir, Downing Street, 10th December, 1836.

I have the honor to transmit to you a Copy of a Memorial which I have received from Mr. David Thomson, a Surgeon in the Royal Navy, praying that he may be permitted to select a Grant of Land in New South Wales in lieu of one which was formerly made to him, but which resumed by the Local Government in consequence of his not having fulfilled the conditions of the Grant, and I have to request that you will report to me your opinion whether there is anything in this case to justify a compliance with the prayer of the Memorial.

I have, &c.,

GLENELG.

1836.
10 Dec.

Proposed
new act for
government
of colony.

Despatch
acknowledged.

Refusal to
appoint
T. C. Harington
as colonial
secretary.

Transmission of
memorial from
D. Thomson.

[Enclosure.]

1836.
10 Dec.

THE MEMORIAL OF DAVID THOMSON, SURGEON IN THE ROYAL NAVY.

To the Right Honble. Lord Glenelg, Secretary of State for the Colonies, etc., etc.,
Sheweth.

Memorial of
D. Thomson
soliciting
land grant.

That your Memorialist has served in the Medical Department of the Navy for a period of Twenty nine years.

That in the year 1824 he emigrated to the Colony of New South Wales, with the intention of becoming a Settler. That he obtained from the Governor Sir Thomas Brisbane an Order for a Grant of Land, and, after much expence in making a selection. One thousand Acres was duly allotted to him, as will appear by the Location Ticket marked No. 1.

That, some time after affairs of a private nature requiring your Memorialist to return to Europe for a short period, he applied for and obtained permission to leave the Colony on the understanding that he was to return within Eighteen Months (Answer to application for leave of absence marked No. 2).

That, on your Memorialist's return to England, he became affected with ill health, and on his recovery was called on to serve in the Navy and was thereby prevented returning within the time above specified; but he wrote to his Agent in the Colony to make improvements on his Estate and was surprized to be informed in answer that a Mr. Palmer, a neighbouring Settler, had (through falsely representing to the Government that Your Memorialist was dead) obtained a transfer of the said Estate to himself.

That your Memorialist believes there has been no instance of a Settler after being in possession of Land being afterwards deprived of it. And he was only prevented returning to the Colony within the period stated in his Letter of application for leave by the exigencies of the Public Service.

That your Memorialist has a quantity of live stock in the Colony and is most anxious to settle there, and is only prevented doing so by the circumstance of his Land being with-held from him.

Your Memorialist urgently yet respectfully solicits your Lordship will be pleased to take into consideration the extreme hardship of his case and direct that he may be permitted to make another selection of Land in lieu of that of which he has been deprived.

5 Decr., 1836.

DAVID THOMSON, Surgeon, R.N.

[Sub-enclosure No. 1.]

THIS is to certify that Mr. D. Thomson is in the actual occupation and possession of One Thousand Acres of Land, situated in Township No. 28, and County of Northumberland, the same being located to him under authority of a Warrant from His Excellency Sir Thomas Brisbane, dated 26th August, 1824.

Location
ticket for
D. Thomson.

F. OXLEY, Surveyor General.

Surveyor General's Office, 12th November, 1824.

[Sub-enclosures Nos. 2 to 5.]

[These were letters from Major Goulburn to Mr. Thomson, 15 December, 1824; Mr. Palmer to surveyor-general Oxley, 15 January, 1827; Mr. Thomson to Sir Thomas Brisbane, 15 November, 1824; and colonial secretary Macleay to Mr. Thomson, 6 July, 1835; copies of these are not available.]

1836.
25 Dec.

LORD GLENELG TO SIR RICHARD BOURKE.
(Despatch No. 241, per ship Prince George.)

Sir, Downing Street, 25 December, 1836.

I have the honor to transmit to you herewith a Copy of a Communication, which has been addressed to my Under Secretary by the Director General of Army Hospitals, containing the substance of various reports which he has received from the Deputy Inspector of Hospitals in New South Wales, relative to the state of the Medical Establishment in the Colony. I also transmit to you a copy of the answer, which I have directed to be returned to this communication. In the absence of any report from you, it is obvious impossible for me to express any definite opinion on the subject. In the mean time, I need scarcely express my conviction that you will afford every assistance to the Deputy Inspector in the execution of his duties; and, in carrying into effect the arrangements contemplated by His Majesty's Government; I have referred for the consideration of the Lords Commissioners of the Treasury your despatch No. 65 of the 15 of June last, relative to the question of granting compensation to Dr. Bowman on the abolition of his office as Inspector of Colonial Hospitals.

I have, &c.,

GLENELG.

[Enclosure No. 1.]

SIR JAMES McGRIGOR TO UNDER SECRETARY STEPHEN.

Sir, Army Medical Dept., 14th Decr., 1836.

I do myself the honor to submit the following statement for the information and consideration of Lord Glenelg, being the substance of some communications which I have received from the Deputy Inspector General of Hospitals recently sent out to superintend the Medical concerns, both Civil and Military, of New South Wales, agreeably to the Instructions of the Lords Commissioners of His Majesty's Treasury in a Letter from their Lordships, dated 5th March, 1835. In submitting for the consideration of the Secretary of State for the Colonies portions of communications from Mr. Thomson, I also beg to offer a few remarks which have suggested themselves in the correspondence.

It appears that Mr. Thompson was put in orders by Sir Richard Bourke in May last to take upon himself the superintendence of the Colonial and Military Hospitals in New South Wales, and that the Colonial and Medical Military Officers were directed to place themselves under his orders, as set forth in the accompanying Memorandum No. 1.

In conformity with the Instructions which Mr. Thompson received here, he, on his way to Sydney, visited Van Diemen's Land, and took some pains to inform himself on the subject of the Hospital Establishment in that Quarter. After his arrival in New South Wales, and he had informed himself of the system of Hospital

Reports
received from
J. V. Thompson.

Assistance to
be given to
J. V. Thompson.

Substance of
reports from
J. V. Thompson.

Appointment of
J. V. Thompson
to charge of
hospitals.

arrangement pursued there, he compared it with that pursued in Van Diemen's Land, and submitted the following system (see Copy No. 2).

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In connexion with the preceding regulations, Mr. Thompson proceeds to shew the number of Officers at present in the Colony, their pay and the nature of their duties, and comparing it (vide Copy No. 3) with the system in force at Van Diemen's Land (see No. 4), submits the propriety of such an Establishment being had recourse to in the Colony of New South Wales. In more fully elucidating his views, I beg to forward a Duplicate (No. 5) of his communication on this point.

Proposal by J. V. Thompson for adoption of system similar to Tasmania.

Relative to this communication, I beg to observe that I fear I will be unable to furnish from the half pay list of the army any effective officers of the Class pointed out, every one who is effective having been appointed to the regular duties of a Medical Officer. I would submit that at some of the stations, such as Sydney, and perhaps others where there are practitioners in Civil life, some of them, judged competent for the duties, might be employed by contract by the month or year, as may be judged advisable, and as is done in other Colonies for Officers and Soldiers of the Army; the Bills for attendance and Medicine being checked and controlled by an examination by the Deputy Inspector General, and thus obviate the necessity of permanent appointments. This arrangement would readily apply to Sydney Hospital, and for the other duties there, as likewise at Paramatta, more particularly as these would be under the immediate eye of the Deputy Inspector General, who would himself superintend and visit the Hospitals as frequently as his other duties would permit. I hope I may be permitted to submit the views of the principal medical officer to the consideration of Lord Glenelg without absolutely, and in unqualified terms, recommending them for the adoption of His Majesty's Government, as there are many local circumstances better known to the Governor of the Colony and to His Majesty's Government, with which I am at present unacquainted, and which might render many modifications necessary; but I need not hesitate to say that I think Mr. Thompson's views and reasoning very judicious and worthy of great consideration.

Inability to provide half-pay army surgeons.

Proposed employment of medical men by contract.

Submission of opinions of principal medical officer.

Mr. Thompson has notified his having taken charge of the Medical Stores of the Colony, which have been found not in so satisfactory a state of arrangement as could have been wished, and hitherto he has been unable to furnish me with any detailed Return of them. Some difficulty has been experienced in getting the necessary accommodation for a proper classification of them, such as is usual in the regular Military Hospitals of this Country; and I regret much to learn that something like jealousy and a disinclination to comply with what has been recommended so strongly, has been evinced by the Colonial Medical Officers in bringing the contemplated arrangement of Mr. Thompson to full efficiency, which I trust will in a little time subside and disappear in favour of wholesome arrangements for the public service; but, while I earnestly bespeak the countenance and encouragement of Lord Glenelg for procuring the necessary assistance in this respect, I am by no means doubting the hearty cooperation of the Governor, under whose orders Mr. Thompson is now acting.

Control of medical stores.

I feel fully justified in recommending that some additional assistance should be allowed Mr. Thompson in the form of Clerks,

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25 Dec.

Allowances
proposed for
J. V. Thompson
and J. Croft.

and I trust I need not urge upon Lord Glenelg's mind the advantage that the service would derive from a liberal consideration of the rules of the service, both towards Mr. Thompson and the Deputy Purveyor, Mr. Croft (with the latter of whom rests the account branch of the Hospital Establishment) in regard to the Contingent expences of those officers in the Items of Lodging money for an office, Household accommodation for both, as the Principal Medical Officer, and the Purveyor, and to Mr. Thompson Horse allowance, rations and travelling expences, the latter Item of which must for a time be very heavy upon him, as he must make several tours of inspection to all the outposts, both for purposes of observation as to the manner in which the duties are performed, and for local information to guide him in proposing fresh arrangements.

Mr. Thompson has entered more into detail on this subject than, at present, I think it necessary to trouble his Lordship with.

I will only add that, while I am of opinion the arrangements now made in these Colonies by appointing so experienced and efficient a Medical Officer as Mr. Thompson to the Superintendence will be productive of the greatest advantage, it shall be my object to controul, as far as lies in my power, the wasteful expenditure of the public money.

I have, &c.,

J. McGRIGOR, Director General.

[Sub-enclosure No. 1.]

MEMORANDUM.

Instructions on
reorganisation of
medical
establishment.

INFORM Mr. Bowman that, His Majesty's Government having resolved to establish and maintain a superior Medical Staff for the purpose of supervising and controlling the Medical Establishments, connected with the Military and Convict Branches of the Public Service in this Colony, J. V. Thompson, Esqr., Deputy Inspector General of Hospitals, has been appointed to the superintendence of the Colonial and Military Hospitals in New South Wales.

Inform him that, by this appointment, the arrangement of the Colonial Government of the 6th March, 1827, sanctioned by the Secretary of State for the Colonies on the 31st March, 1828, is superseded, and that he remains with the Warrant of Principal Colonial Surgeon, under the King's Sign Manual dated 27th Feby., 1819, with which appointment he will continue to receive, until the Pleasure of His Majesty's Government is taken on the subject, the consolidated Salary of £850 per annum, authorized by the approved Colonial arrangement before referred to.

Direct Dr. Bowman to acquaint the several Colonial Medical officers of the appointment and arrival of Deputy Inspector General Thompson, desiring them to pay attention to all such instructions as he shall think proper to give to any of them, either communicated through the principal Colonial Surgeon or directly to the officer himself, and to transmit, from the receipt of this order, the usual reports and returns to the Deputy Inspector General at Sydney, and to communicate with him upon all matters connected with their respective duties.

a true Copy :—J. V. THOMPSON, Depy. Inspector Genl. of Hospitals.

[Sub-enclosures Nos. 2, 3 and 4.]

[Copies of these were not transmitted.]

[Sub-enclosure No. 5.]

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25 Dec.

MR. J. V. THOMPSON TO SIR JAMES McGRIGOR.

Sir, Sydney, 12 June, 1836.

In taking a view of the Medical Department here, and comparing it with that at Van Diemen's Land, as exhibited in the comparative statements herewith sent, I think it would be a great saving to Government, and at the same time an advantage to the Colony and to the respectability of the Department, to have a few disposable half pay Surgeons and assistant Surgeons sent from home, either Staff or Regimental, the difference of pay only to be made up in the Colony. Of the former Class, there will be two required very shortly, viz., one for the Lunatic Asylum* now building between this and Paramatta, and one to replace Mr. Mitchell here on his approaching retirement. Of the latter class, I would propose two at least as actually required in addition to the present Colonial Establishment, vizt., one to attend the Staff, etc., here in place of a Regimental Assistant Surgeon (Dr. Smith, 17th Regt. under orders from India) and one to replace a second assistant Regimental Surgeon doing duty as Storekeeper in the Interior (assistant Surgeon Alexr., 28 Regt.). Indeed in such an extensive command I think you will agree with me that there ought always to be at Head Quarters one supernumerary of each Class, independent of the above.

Proposal for appointment of half-pay army surgeons.

I would beg to suggest, that no more Colonial Surgeons at 15s. nor assistant Surgeons at 10s. be made with Forage and Lodging money, nor to promote the present assistant Surgeons to the higher grade and pay of Surgeons, but gradually to fill up vacancies in the way I have above stated, by which means three effective Medical Officer might be had at the charge of *one*, and the anomaly of being subject to no Military discipline done away with.

Proposals re colonial surgeons.

Perhaps some of the Juniors of the lowest ranks on Staff pay might be induced to come out and to fill the situation of District Surgeons, whose proposed pay 3s. and forage 2s. 6d. would amount to 9s. 6d. per diem, besides what they might make by their private practice amongst the free settlers, which would make it worth £200 a year at least.

Prospects for junior army surgeons.

I am sorry to say that the prevailing vice of Drunkenness has got amongst the medical men; and, altho' there are several qualified to take District Surgeoncies, there are very few who could be trusted. If therefore Government determine upon adopting the system I have proposed with regard to assigned servants, etc., to the full extent, it would be absolutely necessary to send out a good many of the Class I have indicated. I have, &c.,

Drunkenness amongst medical men.

J. V. THOMPSON, Depy. Insp. Genl. of Hosp.

[Enclosure No. 2.]

UNDER SECRETARY STEPHEN TO SIR JAMES McGRIGOR.

Sir, Downing Street, 25 Dec., 1836.

I have laid before Lord Glenelg your Letter of the 14th Inst. containing the substance of certain communications which you have received from the Deputy Inspector of Hospitals in New South Wales, relative to the state of the Medical Establishment in that Colony.

Letter acknowledged.

Lord Glenelg directs me to state that he has not yet received any Report from Governor Sir R. Bourke upon the various points

* Note 172.

1836.
25 Dec.

Allowances for
J. V. Thompson
and J. Croft.

referred to by the Medical Officer, and can, therefore, express no definite opinion respecting them. His Lordship is, however, strongly impressed with the force of your remarks, and will by the very earliest opportunity recommend them to the serious attention of Sir Richd. Bourke. With reference to your recommendation as to the extra allowances to be issued to the Deputy Inspector General and the Deputy Purveyor, I am directed to state that, at the suggestion of the Lords Commissioners of the Treasury, by whom in conjunction with the Secretary at War the details of these arrangements were settled, Lord Glenelg, in communicating the appointment of these officers, authorized the Governor to direct the issue to them by the Commissariat Department, out of the Funds applicable to Military and Convict charges, of the allowances which would attach to their respective ranks according to the Army Regulations if employed on the Military Staff in the same Colony. Lord Glenelg would be glad to be favoured with your opinion, whether it would be advisable to grant these officers any further allowances, and if so to what amount, as his Lordship would be happy to submit any suggestion from you on this subject to the Lords Commissioners of the Treasury.

I am, &c.,

JAS. STEPHEN.

SIR RICHARD BOURKE TO LORD GLENELG.

(Despatch No. 136, per ship Red Rover.)

26 Dec.

My Lord,

Government House, 26 Decr., 1836.

Transmission
of deposition
re robbery at
Corfu.

Having received from the Commandant of Norfolk Island the Deposition of a Prisoner named John Hughes, otherwise John Dixon, formerly a Private in the 9th Regiment of Foot, professing to relate the particulars of a Robbery of the Treasury Chest at Corfu, in which he was engaged while stationed at that place in the year 1817, and to describe the place in which the stolen money was then and still may remain secreted, I have thought it right to forward to your Lordship a Copy of this statement.

I have, &c.,

RICHD. BOURKE.

[Enclosure.]

[A copy of this statement is not available.]

LORD GLENELG TO SIR RICHARD BOURKE.

(Despatch No. 242, per ship Prince George.)

28 Dec.

Sir,

Downing Street, 28th December, 1836.

Application
for land grant
for Scots
church.

I have received your despatch No. 76 of the 22d of July last, enclosing an application from the Revd. Dr. Lang for the grant to the Scotch Church of a portion of Land equal in value to an allotment, which was given up by the Trustees of that Church under the provisions of an Act of the Colonial Legislature for the use of the Australian College.

The particular grounds on which this application has been advanced are inadmissible, because they involve a departure from the terms of the Contract upon which public money was lent for the erection of the Building. The question, therefore, is needlessly encumbered by a reference to the past transactions, and will be best and most fairly considered upon the more broad and general ground of the claims of the Institution to public support from its own intrinsic merit and utility. That support, if afforded at all, should be in the shape of a direct pecuniary grant. The plan of granting public Lands instead of money involves many inconveniences and is open to many objections which are too obvious to need any particular statement. There is no object to which a portion of the Revenues of New South Wales may be more usefully applied than the advancement of Education. But whether sufficient grounds exist for a Grant being made for that purpose to the Scotch College is a question upon the discussion of which I could not enter to any good purpose without your previous deliberation and advice; and I can therefore only recommend the subject to your attention.

1836.
28 Dec.
Objections to
proposed land
grant.

I have, &c.,
GLENELG.

LORD GLENELG TO SIR RICHARD BOURKE.
(Despatch No. 243, per ship Prince George.)

Sir, Downing Street, 28th December, 1836.

I have to acknowledge the receipt of your despatch No. 73 of 15th of July last, enclosing an application from Mr. T. Potter Macqueen to be allowed to receive a specified portion of Land in the neighbourhood of his Estate on the Hunter's River, in lieu of an allotment at Port Jackson to which he considers himself to be entitled; and I have to request that you will acquaint Mr. Macqueen that I can only answer this application by referring to the Communication, which I requested you to make to him by my despatch of the 30th of September last in reply to a similar application which was contained in a letter from him of the 28th of January last.

Reference
to former
decision *re*
land grant for
T. P. Macqueen.

I have, &c.,
GLENELG.

SIR RICHARD BOURKE TO LORD GLENELG.
(Despatch No. 138, per ship Red Rover; acknowledged by
lord Glenelg, 21st October, 1837.)

My Lord, Government House, 28 Decr., 1836.

Since the Expenditure for Police and Gaols has been made a charge on the Treasury of the Colony and the transfer of Stores from the Commissariat to the Ordnance Department

1836.
28 Dec.

Inability of
ordnance
storekeeper to
accept control
of colonial
stores.

has been felt and some loss sustained from the want of the proper officers to receive stores from Contractors and deliver them out to the several Colonial Departments, I imagined the Ordnance Storekeeper, who obtained possession of the Commissariat Stores, might have taken this duty in conjunction with his charge of the Military and Convict Stores, keeping separate accounts and being reimbursed any Expence on account of the Colony by regular quarterly payments receiving himself a Colonial allowance and charging for any Extra Clerks whose employment the additional duty might require. I found, however, that such an arrangement was incompatible with the Ordnance Regulations, and further that the Storekeeper expressed his inability to take any duty beyond what the Military and Convict services required. The officer in charge of the Commissariat also represented to me the reduced Establishment of the Transport Branch of his Department and the impossibility of his conveying Colonial Stores from Sydney to the interior. I thus found it necessary to desire the several Departments to be supplied with stores directly by the Contractors upon approved Requisitions, and to have those required for the interior conveyed in the best way they could. In this manner, the service has been carried on for the last year; but it has been very unsatisfactorily performed, and considerable loss has been incurred by the admission of inferior articles from Contractors and from the want of due check upon the consumption of the several Departments. To remedy this inconvenience to the public and to prevent further loss, I have determined from the beginning of the next year to have all articles required for the Colonial service delivered by the Contractors into a store which I have directed to be fitted up in the Dock Yard (now but little used for naval purposes) under the charge of a Storekeeper with instructions similar to those issued by the Board of Ordnance for the due examination, receipt and issue of every description of store. I have also found it necessary to provide and attach for the present two teams to the Colonial Establishment for the Carriage of Stores, as public conveyances for goods are but just now beginning to be set up in the Colony.

Stores supplied
direct to
departments
by contractors.

Arrangement
for establish-
ment of
colonial stores.

Expenditure
involved.

I propose that the Expence of this Establishment, which for the present will be at the rate of about £800 a year, shall be charged proportionally upon the several Colonial Departments for whose use it is intended, for which sufficient funds have been provided by the vote for 1837.

Before I close this Despatch, I would beg leave to lay before your Lordship the strong impression I have formed, from a consideration of the foregoing subject, of the advantage to be derived.

both in respect of efficiency and economy by placing in the same Department the charge of similar services whether for the Military, Convict, or Colonial Establishments. The fact that, in this Colony, the expence of the two former is to be borne by the Military Chest, and of the latter by the Colonial Treasury, does not appear to me to render it necessary that the charge should be administered by separate offices. It would surely be enough if the order, which directed the Expenditure, set forth the fund to which it was to be charged. If, for instance, the whole cost of procuring stores and supplying Rations, Forage and Transport for Colonial as well as Military and Convict Services was defrayed by the Military Chest, and the administration conducted by Ordnance and Commissariat Officers, the expence of all orders and requisitions for the former including a sum for management might without any perplexity or derangement, of accounts be refunded to the Chest by quarterly payments from the Colonial Treasury. Such an arrangement would secure efficiency by the Exclusive Employment in some important branches of the public service of Officers of British Establishments well versed in the business of their several Departments, whilst a considerable saving of expence would result from the substitution of a small augmentation of numbers to a British in place of the erection of an entire Colonial Department, and simplicity and economy from the use of one set of Contracts only to serve for all the services, Military, Convict and Colonial.

1836.
28 Dec.
Objections to
duplication
of store
departments.

Whilst I offer such an arrangement for the consideration of H.M.'s Government, it is but proper to add that it is not recommended by many of the public functionaries here to whom I have proposed it. Nevertheless, I cannot but think it would be advantageously brought into operation, more especially in Colonies where the Civil Government and Chief Military Command are held by the same Person; and it would require nothing more than the addition of one or two officers or clerks to the Ordnance and Commissariat Departments, the whole charge of the augmentation being borne by the local Treasury.

I have, &c.,

RICHD. BOURKE.

SIR RICHARD BOURKE TO LORD GLENELG.

(Despatch No. 139, per ship Red Rover.)

My Lord,

Government House, 29 Decr., 1836.

29 Dec.

In several Despatches which I have had the honor to address to the Secy. of State for the Colonies on the condition and treatment of Convicts in New S. Wales, and more particularly

Condition
of convicts.

1836.
29 Dec.

Want of
control over
convicts in
road parties.

Formation
of ironed
gangs under
military
officers.

in those named in the margin,* I have represented the imperfect organization and discreditable appearance and behaviour of the Gangs out of irons, which I found established throughout the Colony in great numbers as working Parties on the Roads. From want of legal power and of adequate means to enforce that which the law permits, I was never able to bring these Parties under such efficient superintendence as should at once control their lawless and vagrant disposition, and obtain for the Colonists a fair proportion of useful labor. On this account, I stated my desire to abolish those Parties whenever I could make another arrangement for obtaining work on the roads.

That arrangement I commenced, as reported in my Despatch of 3 Novr., 1832, No. 114, by the formation of Ironed Gangs superintended by Military officers (an employment of which General Lord Hill was pleased to approve) in all matters connected with their custody and discipline. By the change in the Colonial Criminal law† affecting Convicts, which I introduced in 1832, I contemplated a considerable accession of workmen to these Gangs by checking the improvident transportation of Laborers to Penal Settlements. This Law, amongst other good which it has done, has effected that which I thus proposed, and whilst the penal station of Moreton Bay has been diminished by nearly three fourths of its former numbers, the Gangs working in Irons within the Colony for the great benefit of the Settlers have been augmented in the same proportion. There are now about one thousand Convicts in Irons divided into sixteen Gangs working under the control of Military officers, under sentences to labor varying from one to three years. Their labor is as efficient as any forced labor can ever be, and, without tyranny or cruelty, their discipline, submission and safe custody are fully secured. Escapes are very rare and Corporal punishment not so frequent as from the previous bad habits of these Criminals might be supposed necessary. Such measures for their moral reformation and mental improvement, as circumstances permit, are not neglected. The Scriptures and useful Books are placed in their hands, and, in some of the Gangs, Schools have been established and are superintended by the officers in charge. I have great pleasure in recording the very meritorious conduct in this and every other respect of many of the Officers whom I have employed in this duty.

Reduction of
road parties.

Such being the state of the Ironed Gangs both as to discipline and numbers, I have determined to reduce the Road Parties from the 1 proximo, leaving no gangs on the roads but those

* *Marginal note.*—3 Nov., 1832, No. 114; 15 Jan., 1834, No. 1; 18 Decr., 1835, No. 119.

† Note 173.

under Military Superintendence. Hitherto the work whether of Gangs in or out of Irons has been, nominally at least, directed by overseers named by the Surveyor Genl. and inspected by officers of that Department. It has happened, however, that in many cases the voluntary attentions of the Military Superintendt. of Ironed Gangs have done more for the speedy improvement of the Roads than the paid services of the Civil overseers and Surveyors. I have therefore thought it expedient at once to reduce, along with the Road Parties, the overseers and Inspectors to whom I allude, and to transfer the charge of constructing and repairing Roads and Bridges from the Survr. Genl. to the Commanding Royal Engineer. The Military Officers will thus become assistant Engineers and continue their very useful employment under that Title but without additional pay or allowance. They will receive their Instructions from and report to the Commandg. R. Engineer for my information, and thus a perfect unity of operation will be obtained, the want of which under the former system has been occasionally though not frequently experienced.

1836.
29 Dec.

Transfer of roads and bridges to control of commanding royal engineer.

I anticipate a general saving of expence in this arrangement. I consider that there will be no small reduction in the annual cost of Horses, Oxen, Carriages and Tools of all descriptions. These, under the imperfect control of the Survr. Genl.'s Department, were, I have reason to fear, often made away with by the inferior overseers. Under the ordnance Regulations and immediate superintendence of Officers, all such irregularities will be avoided. In Salaries also, the saving will be considerable. The Assistant Surveyors receiving £300 a year with allowances and the numerous overseers being paid at rates varying from 3s. to 1s. a day with Rations, whilst the pay of the Assistant Engineers is usually 6s. a day with forage for one Horse, where any work beyond the principal station is required, and that of the Military overseers varies from 1s. to 6d. This pay to the Military has hitherto been considered a Convict Expenditure and charged on the Chest. I think it probable, however, that, when the Council are aware of the saving effected in the Sr. Genl.'s Department by the reduction of the Road Branch, no objection will be made to place the charge for Assistant Engineers and Military Overseers on the Colonial Treasury.

Economy in expenditure expected by change.

Pay and allowances for assistant engineers.

It will be right to observe, as there was in the time of my Predecessor some considerable discussion between the local Government and the Survr. Genl. upon the expediency of placing the Roads and public Works under his immediate charge, a measure which was finally acceded to, that I should suppose the transfer I now report will be regarded as an agreeable relief by

Opinion of T. L. Mitchell re control of roads and bridges.

1836.
29 Dec.

Opinion of
T. L. Mitchell
re control of
roads and
bridges.

Control of
works in town
of Sydney.

that Officer. He has more than once stated to me that what he formerly contended for was the marking out the lines and directions of great Roads, and not their formation or repair. On the former duty, I propose still to employ him whenever any opportunity offers of calling forth the ability and tact he has displayed in such operations.

The work required within the Town of Sydney I propose to leave as at present under the immediate direction of the Town Surveyor, an active and intelligent officer who has given great and general satisfaction. I propose that he shall report directly to the Government until the time arrives at which the People of Sydney can be induced to take the management of their municipal concerns into their own hands. I have, &c.,

RICHD. BOURKE.

SIR RICHARD BOURKE TO LORD GLENELG.

(Despatch No. 140, per ship Red Rover; acknowledged by lord Glenelg, 30th September, 1837.)

30 Dec.

Admission
of cargo of
wheat at
Sydney *ex*
Chilian vessel.

My Lord, Government House, 30 Decr., 1836.

I have the honor to forward herewith an extract* from the proceedings of the Ex. Council of this Colony, shewing the circumstances under which it was thought expedient to authorize the admission to the Port of Sydney of a cargo of wheat from a Chilian Vessel not strictly navigated according to law.

The proceedings would have been reported to Your Lordship at the time; but, as the price of wheat soon afterwards fell, it was generally understood that the owners declined taking advantage of the admission to entry, and would proceed with it to some other port. The Cargo was however ultimately landed, and the entry having been reported to the Commissioners of Customs, it becomes necessary that I should place your Lordship in possession of the reasons, which induced this Government so far to relax the Law in the present instance, and which will, I trust, prove satisfactory. I have, &c.,

RICHD. BOURKE.

LORD GLENELG TO SIR RICHARD BOURKE.

(Despatch No. 245, per ship Hebe.)

31 Dec.

Transmission
of letter from
G. Overton.

Sir, Downing Street, 31st December, 1836.

I transmit to you herewith a copy of a letter which has been addressed to my Under Secretary by Mr. G. Overton containing a statement relative to the resumption of some Land granted to Mr. Oakey in the year 1824.

* Note 174.

Mr. Overton has been informed that you would be instructed to examine into the facts alleged, and to maintain Mr. Oakey in the possession of his just rights, whatever they may be ascertained to be; but that I could hold out no hopes that the general Regulations under which the land in question had been granted to Mr. Oakey would be departed from.

1836.
31 Dec.
Land claimed for Oakey.

I have, &c.,
GLENELG.

[Enclosure.]

[A copy of this letter* is not available.]

LORD GLENELG TO SIR RICHARD BOURKE.
(Despatch No. 247, per ship Hebe.)

Sir, Downing Street, 31st Decr., 1836.

I have received your Dispatch No. 68 of the 17th June last, enclosing a Memorial from Mr. W. Mann, praying that, on the grounds set forth in his Memorial, he may receive a Grant of Land at Port Philip.

Despatch acknowledged.

Mr. Mann had already brought his claims under the consideration of His Majesty's Government through the Lieutt. Governor of Van Diemen's Land; and I can only now state that I can find no ground for making in his favor an exception from the General Regulations for the disposal of the Lands of the Crown in the Australian Colonies. It may be proper to inform Mr. Mann that he is wrong in supposing that Mr. Henty has received any Grants from the Government of Lands at Portland Bay.

Refusal of land grant for W. Mann at Port Phillip.

I have, &c.,
GLENELG.

LORD GLENELG TO SIR RICHARD BOURKE.
(Despatch No. 248, per ship Hebe.)

Sir, Downing Street, 31 Decr., 1836.

I have had under my consideration your Dispatch No. 71 of the 5th July last, enclosing a Memorial from Mr. William Cape on the subject of a Grant of Land to which he considers himself to be entitled.

Despatch acknowledged.

In the form in which this case has been sent home, it is impossible for me to come to any decision on the subject. Your remarks are limited to the circumstance that the claim advanced by Mr. Cape was, after full investigation, rejected by the Commissioners appointed to report on disputed claims to Lands; and you simply add that the Memorial does not appear to you to contain any thing which calls for enquiry. The Petitioner admits that his claim was unsuccessfully preferred to the Commissioners;

Inability to decide re land grant for W. Cape.

1836.
31 Dec.

Inability to
decide *re* land
grant for
W. Cape.

Report
required.

but he alleges that it was rejected not on the merits of the case, but as resting on grounds which it was not within the province of the Commissioners to investigate, and which he conceives ought to weigh with the Executive Government. I infer, indeed, from your Dispatch that this statement is not altogether correct, and the merits of the case were fully investigated; but, as you have made no specific report on the facts alleged by the Memorialist, I am unable to express any opinion on the claim, until I shall have received from you a further report on the case, which I request you will do me the favour to transmit by the first opportunity.

I have, &c.,
GLENELG.

LORD GLENELG TO SIR RICHARD BOURKE.
(Despatch No. 249, per ship Hebe.)

Sir, Downing Street, 31st December, 1836.

Having referred to the Lords Commissioners of the Treasury the Return of Appointments and Special Payments defrayed from the Colonial Treasury of New South Wales for the quarter ending the 31st of March last, I have the honor to transmit to you, for your information and guidance, a copy of a letter from the Secretary to that Board on the subject of a payment of £25 therein reported to have been made to Mr. Innes for the value of a Horse stolen from him, on the presumption that it had been destroyed as an Act of retaliation on Mr. Innes who had been actively engaged in the pursuit of cattle stealers.

I have, &c.,
GLENELG.

[Enclosure.]

MR. A. Y. SPEARMAN TO UNDER SECRETARY STEPHEN.

Sir, Treasury Chambers, 14 Decr., 1836.

With reference to your Letter dated 6th Instant, enclosing a Schedule of new Appointments and special payments defrayed from the Colonial Treasury of New South Wales for the Quarter ended 31st March, 1836, I am directed by the Lords Commissioners of His Majesty's Treasury to request you will state to Lord Glenelg that, in compliance with his Lordship's suggestions, My Lords have sanctioned the admission by the Commissioners of Audit of the several charges comprised in the said Schedule, but that my Lords deem it necessary to call his Lordship's particular attention to the payment of £25 made by Mr. Innes for the value of a Horse stolen from him, on the "presumption" that it had been destroyed as an act of retaliation upon Mr. Innes, who had been actively engaged in the pursuit of Cattle Stealers, and to observe that they conceive payments of this description to be generally liable to great objection.

I am, &c.,

A. Y. SPEARMAN.

Query *re*
payment to
A. C. Innes.

SECRETARY OF STATE TO THE GOVERNOR.

1837.

The following despatches,* written in the year 1837, have been omitted:— Despatches omitted.

dated	Despatch numbered	Transmitting
4th January	252	authority for conditional pardon for John Harte.
	259	correspondence with Revd. J. D. Lang <i>re</i> Presbyterian church.
10th February	261	instructions for report <i>re</i> Bryan Kine.
7th March	271	recommendation of Thomas Lynch for indulgence.
22nd March	277	recommendation in favour of Robert Cragg, convict.
30th March	283	do do Matthew Cooper, convict.
2nd April	284	recommendation in favour of Robert Toplis, convict.
2nd May	309	approval of ticket of leave for Peter Flynn.
5th May	312	refusal of pardon for John Williams.
13th May	316	instructions for report <i>re</i> Patrick Staunton Daronn or Davonn.
18th May	318	directions for payment for expedition by T. L. Mitchell from land revenue.
25th May	321	approval of four free and eighty-four conditional pardons.
31st May	322	instructions for report <i>re</i> William Lawler, convict.
14th June	329	do <i>re</i> Edmond Coady, convict.
10th July	340	approval of one free and one hundred and thirty-eight conditional pardons.
10th July	341	approval of decision of executive council <i>re</i> claims of Port Phillip association.
21st July	346	free pardon for William Hayes.
25th July	351	do for William Innes and Alexander Lambert.
11th August	360	instructions for report <i>re</i> James Monds, convict.
22nd October	11	do <i>re</i> Hugh Connors and Patrick Kinselagh.
30th October	17	conditional pardon for Joseph Young.
9th November	19	conditional pardons for machine-breaking.
21st November	30	authority for free pardon to Samuel Smedley.
25th November	34	approval of confinement of John Adair as criminal lunatic.
26th November	35	instructions <i>re</i> sentence on Joseph Digman, convict.
4th December	37	approval of six absolute and fifty-nine conditional pardons.
12th December	40	instructions for report <i>re</i> Samuel Welsh, convict.
12th December	41	do <i>re</i> John Linforth, convict.
12th December	42	orders for release for Hugh Morgan, convict.
13th December	43	authority for free pardon for Charles Edsell.
30th December	54	instructions for report <i>re</i> —. Hamilton, lunatic.

ASSIGNMENTS OF CONVICTS.

DURING the year 1837, letters, which enclosed the assignments of convicts (not available), and which recommended convicts for hard labour on public works, *per* the ships named, were written by the under secretary of state, with dates as under:— Assignments of convicts.

(Assignments.)

Date of letter.	Ship's name.	No. of convicts.
20th March	Mangles	310 Male.
25th March	Lloyds	200 "
6th June	Charles Kerr	250 "
11th July	James Pattison	270 "
21st July	Asia	280 "
3rd October	Waterloo	224 "
3rd November	Emma Eugenia	200 "

* Note 73.

1837.

ASSIGNMENTS of convicts—(*continued*) :—Convicts
ordered for
special
treatment.(*For special treatment.*)

Date of letter.	Ship's name.	No. of convicts.
20th March	Mangles	6 Male.
25th March	Lloyds	6 "
6th June	Charles Kerr	7 "
21st July	Asia	3 "
3rd October	Waterloo	17 "
3rd November	Emma Eugenia	18 "

SIR RICHARD BOURKE TO SECRETARY OF STATE.

Despatches
omitted.

THE following despatches,* written in the year 1837, have been omitted :—

Despatch dated	Despatch numbered	Transmitting
6th January	5	quarterly return of intestate estates.
24th January	5	accounts and abstracts from colonial treasurer.
2nd February	10	return of prisoners tried before supreme court in 1836.
18th February	14	introductions of Arthur Savage and John Dobie as immigration agents similar to despatch numbered 13.†
18th February	16	
1st May	24	claims of seven convicts to pardons.
3rd May	26	recommendation for free passages for wives and families of sixty-eight convicts.
4th May	27	inquiry <i>re</i> sentence on Joseph Digman, convict.
1st June	35	six absolute and fifty-nine conditional pardons for approval.
2nd June	36	report <i>re</i> John Adair, a criminal lunatic.
8th June	42	return of persons charged with criminal offences.
21st June	50	quarterly return of intestate estates.
22nd June	51	nominal list of tickets of leave granted in 1836.
23rd June	52	return of deaths of convicts in 1836.
28th June	55	return of escapes of convicts in 1836.
29th June	56	list of machine-breakers deprived of pardon through misconduct.
20th July	62	abstract of revenue and expenditure for 1837.
22nd July	64	quarterly return of intestate estates.
23rd July	65	recommendation for free passages for wives and families of twenty convicts.
25th July	67	one absolute and sixty-four conditional pardons for approval.
1st August	73	return of pardons granted in 1836.
13th August	78	quarterly schedule of expenditure from military chest.
20th August	80	returns of hospital supplies.
15th September	92	certificate of death of Henry Helmsley.
2nd November	106	application for remission of sentence by James Daly.
4th December	127	quarterly return of intestate estates.
4th December	128	recommendation for free passages for wives and families of thirty-seven convicts.
4th December	131	recommendation of Alick Osborne, surgeon, R.N., for further employment as agent for emigration.
4th December	132	fourteen absolute and one hundred and seventy-nine conditional pardons.
4th December	133	report <i>re</i> death of D. Kelly, convict.

SIR RICHARD BOURKE TO UNDER SECRETARY OF STATE.

THE following despatch, written in the year 1837, has been omitted :—

Date.	Transmitting
1st January	schedule of despatches for year 1836.

* Note 73.

† Note 175.

SIR RICHARD BOURKE TO LORD GLENELG.
 (Despatch No. 1, per ship Red Rover.)

1837.
 1 Jan.

My Lord, Government House, 1 January, 1837.

The greatly increased numbers of the Flocks and Herds in this Colony, the high price obtained for Australian Wool in the English Market, the success of some of the adventures in the Whale Fisheries and other circumstances, which it would be tedious to particularize, have led to the present unexampled prosperity of New South Wales and placed in the hands of many of the most considerable settlers a large amount of surplus Capital, which has been to a considerable extent reinvested by them in the purchase of vacant Crown Lands. The consequence of this reinvestment has been the gradual accumulation of Specie in the Colonial Treasury to an amount much beyond what is required for the ordinary Expenditure of Government. Neither in the present state of the Colony is this treasure available for the construction of the many public works which are required by the Inhabitants of all new Countries, the number of artisans, by whose skill and labor such works should be erected, being still greatly deficient. The constant demand of the Government and of Individuals have raised the price of labor and of materials for building to so high a rate as to deter many from undertaking works they had projected and to compel others to desist from what they had commenced, but without producing any reduction of prices. The Government could not, under such circumstances, with any propriety press forward into the market to the further loss and inconvenience of Individuals, and thus the most advantageous mode of restoring to circulation the accumulation in the Treasury is much diminished in its operation and effect.

Causes of prosperity in colony.

Capital invested in land.

Accumulation of specie in treasury.

Increase in price of labour and materials.

The Colonial Banks were the first to represent the inconvenience of the accumulation, but without proposing any specific remedy, as your Lordship will perceive on perusing the Letter signed on their behalf, of which I have the honor to transmit a Copy. The measure, which I have adopted in diminution of the evil complained of, has been to encrease the Government Deposits at the Banks, believing the security of these Establishments to be undoubted. For the last two or three months, each of the four has had at its disposal a floating balance of about £35,000 of Government money, taking together the deposits of the Colonial Treasury and Military Chest. For these Balances, the Banks pay an interest of 2½ per cent. They have thus been enabled to continue their Discounts as far perhaps as it may have been prudent to extend them. At this season, when the year's wool is brought to Sydney for sale and exportation, any considerable want of accommodation would have been much felt by the

Protest by banks re accumulation of specie.

Increase of government deposits in banks.

Interest paid by banks on deposits.

1837.
1 Jan.

Colonists in general. Judging by the prices now giving for wool, I do not consider that any considerable inconvenience has been sustained. The scarcity of money is, however, a matter of general complaint.

No specie has been placed in the Treasury Vault since the 2nd November last. The Balances of the Colony in the Banks have therefore been increasing, but those of the Military Chest have diminished. The sum now in the vault amounts to £218,000, to which, if the Colonial Balances in the Banks (about £120,000) be added, there will be found about £340,000 of specie in the power of the Government. This sum is probably more than two thirds of the whole of the specie in the Colony.

Whether this excess of Revenue over Expenditure is likely to continue, it is not easy to determine. Your Lordship will perceive from the Returns now transmitted, how large a proportion of the Revenue for 1836 has been derived from the Sale of Crown Lands. This cannot be called a permanent source of Income, nor can I say there is any clear prospect of its being diminished. The annual sales of wool supply the Colonists with surplus Capital, which they find it most convenient to reinvest in the purchase of Land for the further augmentation of their Flocks. This may go on as long as there is a profitable sale for Australian Wool and Land in New Holland for purchase. The want of specie in the hands of the public, which forms a present subject of complaint, has not yet in any considerable degree checked the demand for Land.

Your Lordship will probably agree in considering a Revenue greatly exceeding the Expenditure to be an anomalous and unprofitable state of affairs and that it is the duty of the Government, if it cannot expend the money of the people to their advantage, to leave it in their hands to be used by themselves. Under this view of the case, the Revenue should be immediately reduced. But upon investigation it will be found to be almost wholly derived either from duties on Spirituous Liquors or from the Sale of Crown Lands. To reduce the duty on imported Rum is a measure as yet quite uncalled for upon any other grounds, and might be injurious to morals and Policy. To stop the Sale of Crown Lands would either check the extension of a most profitable pursuit, the depasturing of Flocks and Herds, or augment the unauthorised occupation of Crown Lands to a most inconvenient degree.

If the Revenue then cannot be advantageously reduced, means should be taken for its profitable Expenditure. The public voice calls for the encouragement of Immigration. I have already done as much for this object as at the time seemed advisable. By the Gov. Notice* of 28 Oct., 1835, of which Your Lordship has been

* Note 176.

Specie at
control of
treasury.

Revenue from
sale of crown
lands.

Disadvantage
of excessive
revenue.

Inability to
reduce sources
of revenue.

Popular
demand for
immigration.

informed by my Despatch of 30th April last, No. 49, I have offered Bounties to the Colonists on the introduction of Mechanics and Agricultural Laborers, and, under the superintendence of Surgeons of the Royal Navy, I have proposed that Government should bring out Emigrants from the United Kingdom upon conditions highly advantageous to the adventurers. On the arrival of the Artisans thus to be brought out by Government, immediate employment may be given to them on the public Works, of which some have not been commenced, and others are proceeding slowly for want of hands. A few Immigrants have lately appeared under the first of the specified arrangements. I have not yet been informed of Your Lordship's pleasure with respect to the second. I have reason, however, to believe from intelligence lately received from London that Messrs. Boyter and Osborne have been authorized to proceed in the execution of my Instructions, and I am therefore about to employ other Naval Surgeons in the same way who will shortly leave this Place for England.

1837.
1 Jan.
Encouragement
of immigration.

If these Gentlemen succeed satisfactorily in the object of their mission, means will be afforded for returning to circulation the Specie accumulated in the Treasury, whilst the Colony will be benefitted and adorned by many useful works. If, on the contrary, adventurers for this distant Colony are not to be procured in sufficient numbers, or if any impediment should be offered to the operations of the Agents, I shall feel myself much at a loss how to proceed. But, however this may be, Your Lordship will, I trust, consider that under the circumstances I have represented, I shall not exceed the exercise of a sound discretion, if I avail myself of all favorable opportunities for returning to the Public, by a judicious expenditure, the large sums which have accumulated in the Colonial Treasury. I have, &c.,

Advantages of
immigration.

Proposed
expenditure of
surplus funds.

RICHD. BOURKE.

[Enclosures.]

[A copy of the letter from the banks is not available. Similar copies of the financial papers were printed in the "Votes and Proceedings" of the legislative council.]

LORD GLENELG TO SIR RICHARD BOURKE.
(Despatch No. 250, per ship Hebe; acknowledged by
Sir Richard Bourke, 26th November, 1837.)

Sir,

Downing Street, 2d January, 1837.

2 Jan.

I have received your despatch No. 66 of the 11th of June last, with its enclosures relative to an overpayment of £2,000 made to Mr. R. Campbell upon an award of compensation fixed by the Lords Commissioners of the Treasury in the year 1821.

Despatch
acknowledged.

1837.

2 Jan.

Interpretation
of award of
compensation
to R. Campbell.

On referring to the correspondence which took place at the time, and particularly to the letter from the Secretary to the Treasury which was transmitted to Sir Thomas Brisbane for his information and guidance with Lord Bathurst's despatch No. 6 of 3d of January, 1825, I cannot see the slightest ground for doubt that it never was contemplated to grant Mr. Campbell a higher amount of compensation than four thousand pounds in the whole, including the Land and Cattle which Sir Thomas Brisbane was directed to give to him. I cannot but express my surprise at the receipt by Mr. Campbell of the sum of £2,000 without notice to the local Government, that he had already given authority to Messrs. Fairlie and Co. to receive it in this country; and, in case Mr. Campbell should decline to repay this sum, I have to instruct you to direct the Attorney General to your Government to proceed against Mr. Campbell for the recovery of the amount overpaid to him.

I have, &c.,

GLENELG.

SIR RICHARD BOURKE TO LORD GLENELG.

(Despatch No. 2, per ship Red Rover.)

My Lord,

Government House, 2 January, 1837.

As desired by Your Lordship's Despatch of the 28th February last, No. 117, I have the honor to transmit, in the form required, Returns of the rates of wages and prices of provisions for the six months ending the 30 day of June last. Although confined to Sydney, they may be considered applicable to the whole Colony, servants of all kinds being engaged by the Settlers in Sydney and taken from thence to their property in the interior, while provisions of all kinds, varying as they may in price in different districts, may reasonably be taken at the average of the Sydney Market.

The last Column, stating the total number of each description of workman required, has been filled up according to the best information that could be obtained by the officer who compiled the Return; but I cannot say that I have any confidence in its correctness as I do not believe it possible, by any exertion, to ascertain the particulars with such precision as to justify their publication in an official document. Being inserted in the form prescribed by Your Lordship, I did not feel justified in authorising its omission. But I repeat that it cannot be depended upon, being, I conceive, in almost every instance below the mark.

I have, &c.,

RICHD. BOURKE.

[Enclosure.]

[A copy of this return is not available.]

Transmission
of returns of
rates of wages
and prices of
provisions.

Criticism of
details *re*
demand for
labour.

LORD GLENELG TO SIR RICHARD BOURKE.

(Despatch No. 251, per ship Hebe.)

1837.
3 Jan.

Sir, Downing Street, 3d January, 1837.

Having referred for the consideration of the Lords Commissioners of the Treasury your despatch No. — of the 10th of May last, with the explanation therein enclosed from Mr. Justice Burton relative to his claim to the payment of certain expenses, incurred by him in holding a Court at Norfolk Island, I have now to acquaint you that, under the circumstances stated by Mr. Burton, His Majesty's Government are prepared to sanction those charges, and the Lords Commissioners of the Treasury have accordingly issued the necessary directions for that purpose to the Commissioners of Audit. You will, however, understand that His Majesty's Government are induced to sanction the admission of the payment on account of the additional premium of Insurance, by the consideration of the peculiar circumstances under which Mr. Burton was called upon to proceed to Norfolk Island and of the readiness with which the duty was undertaken by him without remuneration beyond the reimbursement of his actual expenses.

Despatch
acknowledged.

Admission of
charge for
expenses of
W. W. Burton.

I have, &c.,
GLENELG.

SIR RICHARD BOURKE TO LORD GLENELG.

(Despatch No. 3, per ship Red Rover.)

My Lord, Government House, 3 January, 1837.

Referring to my Despatch of the 16th September last, No. 102, in which I informed your Lordship of what had taken place upon communicating to Mr. McLeay the appointment of his successor in the office of Colonial Secretary, I have now the honor to state that, in pursuance of the intimation given to that gentleman, I desired my private Secretary to inform him, by letter dated the 26th December last, that I proposed to issue the Commission of Mr. Deas Thomson on the 2nd Janry. following. In reply, I received a letter from Mr. McLeay of which a Copy is transmitted. In this Letter, Mr. McLeay required an order under my hand for the relinquishment of his Office and an official intimation of His Majesty's pleasure on the subject. I therefore addressed to him on the 30 Decbr. a letter, of which a Copy is also sent. Mr. McLeay quitted office on the 2nd January last, and on the same day a Commission under the seal of the Colony was issued in obedience to His Majesty's commands, appointing Mr. Deas Thomson Colonial Secretary and Registrar of New South Wales.

Correspondence
with
A. Macleay *re*
appointment of
his successor.

Upon the topics of Mr. McLeay's Letter of the 26th December, it is not necessary that I should enter at any great length, and I

1837.
3 Jan.

much regret that I should have to trouble your Lordship with any observations on the subject in which I am personally so much concerned; but, as some remarks on this Gentleman's statements may be expected of me, I will briefly notice what Mr. McLeay styles his Protest.

Denial of mis-
representation
alleged by
A. Macleay.

With respect to the 1st Article, I flatly deny that there has been any *misrepresentation* on my part. The expression of the probability of Mr. McLeay's being out of office within a year, as communicated by my Despatch to the Earl of Aberdeen on the 6th August, 1835, was used by him and was distinctly heard and noticed by others in Council as well as by myself, and being spoken of out of Council led (without any communication to me) to the application of Mr. Riddell to the Secretary of State (with which Your Lordship is acquainted) for an appointment to the expected vacancy. As to the necessity for any reference to Mr. McLeay on my part for an explanation of his intention, it would have been more proper in him to have tendered it. The angry manner in which the language had been used by him, and the unbecoming and violent opposition made by him to the measure of Government in the discussion of which it was used, and the fact that, if the words were to bear their natural meaning, Mr. McLeay had already taken steps to vacate his office without thinking it necessary to acquaint the Governor with his intention, all these reasons were conclusive against any application on my part to Mr. McLeay.

Difficulty of
government
through
opposition of
civil officials.

As regards the second article of the Protest, Your Lordship being in possession of my despatch* to Lord Aberdeen and being cognizant of the difficulty I experienced in carrying on the Govt. through the agency of public servants professing without restraint and frequently without respect opinions at variance with mine upon important Colonial Affairs, I must conceive that Your Lordship was fully acquainted with the circumstances of the case.

Effects of
opposition of
A. Macleay.

Upon the third, it is sufficient to say that the public Service had suffered and must have continued to suffer from the difference subsisting between the Governor and Colonial Secretary. This state of affairs had been aggravated by the determined hostility† both in and out of Council evinced by Mr. McLeay to the measure proposed by the Governor and sanctioned by His Majesty's Ministers for the institution of National Schools in this Colony. After a rupture so notorious, and an opposition conducted with so little decency and respect for the office I hold, was it possible we could cordially unite for the furtherance of His Majesty's Service?

* Note 177.

† Note 178.

The 4th Article hardly deserves an observation. It is juggle between actual and official knowledge. Mr. McLeay admits he had seen the London Gazette containing Mr. Thomson's appointment. He had read in my presence Your Lordship's despatch announcing the transmission of the King's Warrant for that Appointment, and I had moreover informed him, by my Private Secretary on the 26th Decbr., that His Majesty had issued the Warrant. He could not, therefore, have been ignorant of the King's pleasure on the subject, nor yet that he held office during the Royal pleasure only.

1837.
3 Jan.

Prior knowledge of A. Macleay re appointment of E. D. Thomson.

I have only further to observe that, in stating in the latter part of his letter what passed at the interview on the 3rd September, Mr. McLeay is mistaken in supposing that I meant to limit the Communication of my being unable to place confidence in him as a public servant to the period subsequent to my Despatch addressed to Lord Aberdeen. I had necessarily made this complaint at a much earlier stage of my administration and in fact alluded to it in the opening paragraph of that despatch.

Error in opinions of A. Macleay.

Upon the matter of the last paragraph of the letter, I need hardly acquaint Your Lordship that it was to Mr. McLeay's political Associations in this Colony and not to his general or private acquaintance that I alluded on the occasion referred to.

Political associations of A. Macleay.

I have, &c.,

RICHD. BOURKE.

[Enclosure marked A.]

MR. G. K. HOLDEN TO COLONIAL SECRETARY MACLEAY.

Government House, Paramatta,

26th December, 1836.

Sir,

The Governor has deemed it proper that I remind you of the intimation personally given to you by His Excellency in the early part of September last, that His Excellency intended, at the close of the present year, to carry into effect the warrant which His Majesty has been graciously pleased to issue under the Royal Sign Manual, appointing Mr. E. Deas Thomson, Colonial Secretary of New South Wales.

Date for assumption of office by E. D. Thomson.

I am accordingly directed to inform you that, in pursuance of the intention then signified, His Excellency proposes that Mr. Deas Thomson should enter upon his office on Monday the 2nd January next.

I have, &c.,

G. K. HOLDEN, P. Secy.

[Enclosure marked B.]

COLONIAL SECRETARY MACLEAY TO SIR RICHARD BOURKE.

Sir,

Sydney, 29th December, 1836.

I have received a letter from your Excellency's Private Secretary, dated the 26th of this month, in which he mentions that your Excellency had deemed it proper that I should be reminded of the intimation, personally given me in the early part of September

Letter acknowledged

1837.
3 Jan.

Letter received
from
G. K. Holden.

Refusal by
A. Macleay
to resign.

Reasons for
protest against
dismissal.

last, of your Excellency's intention, at the close of the present year, to carry into effect the Warrant under the Royal Sign Manual, appointing Mr. E. Deas Thomson Colonial Secretary of New South Wales; and that, in pursuance of the intimation so signified, your Excellency proposes that Mr. Thomson shall enter upon his office on Monday, the 2nd of January next. Although I cannot admit that a letter from your Excellency's Private Secretary is an official communication to me on this or any other subject, yet, anxious as I am, and always have been, to attend to your Excellency's wishes with the courtesy which is due to you, I do not hesitate to acknowledge the receipt of Mr. Holden's Letter; but I feel it my duty at the same time to remind Your Excellency that, at the personal interview alluded to, which took place on the 3rd of September, I expressed in strong, but I hope not in unbecoming terms, my sense of the very unceremonious and unhandsome manner in which I had been treated in this matter, and that I had no intention, and was resolved not to resign my office. To that Resolution I still adhere, and I now beg leave to inform your Excellency that I shall continue to hold my office until I am called upon lawfully, or at least by an order under Your Excellency's hand, to give it up. Such an order I shall, of course, instantly obey, but at the same time I shall protest against being so required to vacate my office for the following reasons:—

1st. Because it is evident from Lord Glenelg's Letter of the 23rd of February last to your Excellency, that my dismissal from Office is the result of a misrepresentation of some words used by me in Council; and which misrepresentation might have been avoided by a personal reference on the subject to myself, which was never made.

2ndly. Because it is impossible to believe that, had Lord Glenelg been aware of the real circumstances of the case, His Lordship would have sanctioned so uncourteous a procedure as the arbitrary dismissal from office of either an officer holding the situation of Colonial Secretary, or an Individual who had served His Majesty's Government, and I may venture on such an occasion to affirm *faithfully*, for so long a period as forty years.

3rdly. Because I do not consider that, by depriving me of my office at this time, your Excellency acts in accordance with the Instructions of Lord Glenelg, who specially desires your Excellency to consult my convenience to the utmost extent, which may be compatible with the Interest of the public service; and I venture now to state that there will be nothing incompatible with that interest in awaiting the result of a reference to the further consideration of His Lordship on this subject.

4thly. Because, from the manner in which the appointment of Mr. Thomson has been notified in the London Gazette, there is nothing to shew that it was His Majesty's intention that he should supersede me until my office shall become vacant; and whether my appointment be "*durante bene placito*" or *without limitation*, it is certainly an appointment from the King, and therefore can only be determined by His Majesty. Such I believe to be the Law of England, and I presume is the Law in this Colony. Your Excellency is aware that to this time no communication of His Majesty's Pleasure has been made to me; and I now beg leave to apprise Your Excellency that I shall not relinquish my office until such a communication shall have been officially made to me.

Having thus stated the grounds of my Protest against my Dismissal from office under the authority of Lord Glenelg's Letter to your Excellency of the 23rd of February last, I should have wished to have made some observations on that part of Your Excellency's verbal communication on the 3rd of September, in which you mentioned to me that, since the date of your letter to the Earl of Aberdeen to which that from Lord Glenelg is an answer, you had informed your Friends at home that you could not carry on the business of the Government with me, as you *had no confidence in me*, in consequence of my opposing the Government, and associating with Persons who are hostile to it; but I shall defer entering further into this subject, until your Excellency will do me the favor of informing me of the grounds on which you felt warranted in making so sweeping and serious a charge.

1837.
3 Jan.

Statements by
Sir R. Bourke
re opposition
of A. Macleay.

I have already requested verbally, and now repeat my request, that your Excellency would be pleased to explain in what manner I have forfeited your confidence, and to state in what instances or instance I have ever betrayed it, or disobeyed your orders. With respect to my Associates, I can only repeat that, as they have always been the most respectable Persons in the Colony, I am anxious that your Excellency would be pleased to enable me to understand the particular grounds of your accusation. I have, &c.,

Request for
proofs of
statement.

ALEXR. MCLEAY.

[Enclosure marked C.]

SIR RICHARD BOURKE TO COLONIAL SECRETARY MACLEAY.

Government House, Paramatta,

30th December, 1836.

Sir,

As you state in your Letter of yesterday's date, that you deem it necessary to have an order under my hand for the relinquishment of the Office of Colonial Secretary, and an official intimation of His Majesty's pleasure on the subject, I have the honor to inform you that I have received His Majesty's Warrant, under the Royal Sign Manual, given at St. James's on the 26th day of February, 1836, in the Sixth Year of His Majesty's reign, requiring me forthwith to issue Letters Patent under the Seal of the Colony appointing "Edward Deas Thomson, Esquire, to be Colonial Secretary and Registrar of the Records of our Colony of New South Wales in the room of Alexander McLeay, Esquire," and that I propose to issue those Letters Patent on Monday next, the 2nd January, 1837, at which time I have to require that you will relinquish the said office.

Notification of
appointment of
E. D. Thomson
as successor
to A. Macleay.

I have further the honor to inform you that Mr. Holden will be at Government House, Sydney, to-morrow the 31st instant, between the hours of one and three o'clock p.m., to afford you an opportunity of inspecting His Majesty's Warrant, if you shall so desire. I have, &c.,

RICHD. BOURKE.

SIR RICHARD BOURKE TO LORD GLENELG.

(Despatch No. 4, per ship Red Rover; acknowledged by lord Glenelg, 23rd August, 1837.)

My Lord,

Government House, 4 January, 1837.

4 Jan.

I have the honor to inform Your Lordship that, in obedience to His Majesty's commands communicated in Your Lordship's Despatch of the 26 February last, No. 111, I have issued

Despatch
acknowledged.

1837.

4 Jan.

Commission
issued to
W. Macpherson
as clerk of
councils.

Abolition
of office of
collector of
internal
revenue.

Accommoda-
tion provided
for treasurer
and auditor-
general.

Appropriation
proposed for
erection of
building for
treasury.

a Commission under the seal of the Colony appointing Wm. Macpherson, Esq., to be Clerk of the Councils in the room of Edwd. Deas Thomson, Esq., appointed Colonial Secretary. This Commission is dated the 2nd inst., from which period, in pursuance of the arrangement recommended by the Royal Commission in November, 1830, and proposed to be adopted in my Despatch of the 6th August, 1835, No. 102, the Office of Collector of Internal Revenue previously held by Mr. McPherson has been united to the Treasury and its business is now conducted by the Colonial Treasurer.

To enable the Treasurer to carry on his enlarged duties with convenience to the Public and himself, it has been necessary to hire a house capable of containing the Clerks of both Branches. This has been effected and room also obtained for the accommodation of the Auditor General's Department in the same Building. By this appropriation, the House* occupied as an office for some years by the Auditor General and Collector of Internal Revenue has been restored to the Chaplain of St. James's for whom it is stated to have been built, and to whom, during its occupation as a Government office, an allowance first of £150 and latterly of £120 a year has been paid. The rent of the House now taken amounts to £300 a year. The Building,* in which the Business of the Treasurer's office was lately conducted, is not yet wholly evacuated by that officer, as it contains the Vault in which the Specie is deposited. It must, however, soon be given up, as it is situated within the precincts of the Barracks and is claimed by the Ordnance for Military purposes. The Commissariat now occupy a large portion of it. A vault may then be constructed in the House now hired, which it will be necessary to retain until a range of public offices of suitable dimensions and in a convenient situation shall have been erected. I would, with Your Lordship's permission, propose to the Council to appropriate a sum of money for this purpose as soon as I perceive any favorable opportunity of contracting for the Building. No public offices upon a scale proportioned to the business transacted have yet been erected in Sydney. In the mean time, I hope Your Lordship will authorise the Expenditure incurred by the arrangement I have now detailed.

In carrying it into effect, I thought it right to ascertain whether any fresh security should under the circumstances be called for from the Treasurer. I have abstained from requiring it upon the authority of the Atty. General's opinion as given in the Letter of which I transmit a Copy. I have, &c.,

RICHD. BOURKE.

* Note 179.

[Enclosure.]

1837.
4 Jan.

ATTORNEY-GENERAL PLUNKETT TO COLONIAL SECRETARY THOMSON.

Sir, Attorney General's Office, 4th January, 1837.

I have the honor to acknowledge the receipt of your letter No. 37/1, stating that the office of Collector of Internal Revenue being by order of His Majesty's Government abolished, and the duties of that Office being henceforward to be executed by the Colonial Treasurer in his own name, and requesting, by direction of the Governor, my opinion. Whether this additional duty will in any manner relieve Mr. C. D. Riddell or his Sureties from the obligation of their bonds, of which copies were enclosed? And also stating that, if I should be of opinion that the bonds will continue in full force, it was His Excellency's desire that I should prepare the draft of a letter, by which the Governor (or the Colonial Secretary by the Governor's desire) is to direct Mr. Riddell to take over to the Treasury the business of the Collector of Internal Revenue.

Opinion by
J. H. Plunkett
re bonds given
by and for
C. D. Riddell;

In compliance therewith, I have carefully considered the terms and extent of the bonds referred to; and I am of opinion that they are binding upon Mr. Riddell and his Sureties Not only for the performance of those duties appertaining to the office of Treasurer, according to such instructions as have been already given, but also according to such directions and instructions *as he shall receive* from His Majesty, or the Governor or Lieutenant Governor for the time being of N. S. Wales, or from such other person or persons as shall be duly authorized to give such orders, directions or instructions to him, the said C. D. Riddell.

With respect to the draft of the letter which it is His Excellency's desire I should prepare, As I am not sufficiently acquainted with the forms of such letters, and as there must be many precedents of instructions of a Similar nature to be found in Your Office in order to preserve uniformity, I think it better to leave the formal part to be drafted in Your Office, and, if you conceive it necessary, to be afterwards Submitted for my perusal.

and re letter
of instructions
for
C. D. Riddell.

The Substantial parts of the instructions necessary I annex as a Memorandum herewith Sent.

I have, &c.,

JOHN H. PLUNKETT.

[Sub-enclosure.]

MEMORANDUM.

"To collect, account for, and pay over in the capacity of Treasurer of the Colony of New South Wales all sums of money, now due or payable or that shall hereafter become due or payable to His Majesty's Government of New South Wales under any of the following heads of Revenue, Viz., Crown Lands, Rents of Tolls, Ferries and Markets, Licenses for retailing liquors, Licenses for Auctioneers, Licenses for depasturing lands beyond the limits of location, Duty on Spirits distilled in the Colony, Duty on Sales by auction, Fees of Public Offices, Rents of Government buildings and premises or lands, Proceeds of Sales of Public property, Recovery of loans, Miscellaneous; Also to do and perform such other acts or things as have heretofore been done and performed by the Collector of Internal Revenue of New South Wales, and as may from time to time become necessary, appertaining to the Collecting, accounting for, and paying of any part of the revenue of said Colony."

Memorandum
re proposed
instructions
for treasurer.

True Copy:—E. DEAS THOMSON, Col. Secy.

1837.
5 Jan.

LORD GLENELG TO SIR RICHARD BOURKE.
(Despatch No. 253, per ship Hebe.)

Sir,

Downing Street, 5th Jan., 1837.

Proposed
employment of
G. Barney on
colonial works.

I have received your Dispatch No. 74 of the 20th of July last, reporting that a Vote of £500 had been passed by the Legislative Council in their recent Session, subject to the approval of His Majesty's Government, for engaging the services of Captain Barney, the Commanding Officer of Royal Engineers, in superintending the Colonial Works in the Colony under your Government. The arrangement, communicated to you by my Despatch No. 202 of the 30th of August last, has of course superseded the necessity for granting any special remuneration to Captain Barney for superintending the Colonial Works, and I can only refer you to that arrangement.

I have, &c.,
GLENELG.

LORD GLENELG TO SIR RICHARD BOURKE.
(Despatch No. 254, per ship Hebe.)

10 Jan.

Sir,

Downing Street, 10th January, 1837.

Refusal of
land grant and
appointment
for C. Smith.

I have received a letter from Dr. Charles Smith, requesting that, in consideration of his misfortunes and the losses which he sustained on emigrating to New South Wales, he may receive a Grant of Land under the old Regulations, and that he may succeed to the office of Coroner at Sydney in the event of a vacancy which he anticipates. I have to request that you will acquaint the writer that it is impossible for me to comply with his application for a Grant of Land and that, much as I commiserate his misfortunes, I regret that I can hold out to him no prospect of his succeeding to the office of Coroner, if it should become vacant.

I have, &c.,
GLENELG.

LORD GLENELG TO SIR RICHARD BOURKE.
(Despatch No. 255, per ship Hebe.)

13 Jan.

Sir,

Downing Street, 13th January, 1837.

Application by
J. G. Collins
for land to
breed horses.

I have the honor to transmit to you Copies of a correspondence which has taken place between my Under Secretary and Captain Collins, relative to certain facilities which he is desirous to receive in obtaining Land in New South Wales on which to raise a breed of Horses for the supply of the East India Company's Cavalry. As Sir George Grey's Letter to Captain

Collins of the 24th Feby., 1836, states all the facilities which I have led him to expect in furtherance of his project, it is unnecessary for me to add anything more upon the subject.

1837.
13 Jan.

I have, &c.,
GLENELG.

[Enclosure No. 1.]

CAPTAIN COLLINS TO LORD GLENELG.

66 Jermyn Street, St. James's Square,
London, 13 Feby., 1836.

My Lord,

I do myself the honor to report to you that, in consequence of a communication from the Madras Govt., I proceeded, in September, 1833, to New South Wales to ascertain the possibility of obtaining annual supplies of entire Horses for the Madras Artillery Dragoons and Native Cavalry. I have to add that the result of my visit is satisfactory in the highest degree. No country can offer so many advantages for the breeding of Horses from its fine climate and extensive and rich tracts of Pasturage, and having already shipped for Madras three Cargoes of Horses, Two of them had reached their destination before I left Sydney and were highly approved of, no doubt can any longer be entertained of such supplies, as the Madras Government may require, being yearly forwarded, as I have entered into a contract at a fixed price, with the principal Breeders of Horses in Australia, for the choice of their stock once a year.

Prospects of breeding horses in colony for Indian army.

I had determined to have embarked last August for Madras in order to have the arrangement placed on a permanent footing, when I received a communication from the Madras Govt. informing me that assurances had been made to them of a sufficient supply of Horses being in a few years obtainable from the Studs in India, and that the supply therefore from New South Wales was only to be pro tempore.

Expected supply of horses from studs in India.

To enable me to compete successfully with the Bengal Studs, for from thence only could any number of Horses at present be obtained, it would be necessary to place me on as near an equality as possible with the Stud Departments there, who have their Land free of Rent. The Colonial Government of Sydney only grant Leases of Land for twelve months at a time, and it is necessary for me to have a large tract of Land for a run, being obliged to purchase the entire Colts from the Farmers at one and two years old, as the Fences are not sufficiently high and strong to keep them within bounds after that age, and a Penalty of Five Pounds Sterling is levied on the owner of every stray entire colt. At three and a half years old, they are fit for embarkation. Being aware of the objection entertained at present by Government to confer Grants of Land, I merely solicit a Lease for a certain number of years at the Rent established all over the Colony of one pound sterling per section, with permission for me to purchase, on the expiration of the Lease, the whole or any part thereof, as I may find convenient, at the present usual rate of Land sold in the interior of the Colony, namely Five Shillings per acre. This permission for purchase is requested as a heavy outlay in putting up the numerous Fences, felling Timber, clearing the Land, and erecting Buildings, etc., would be required. The Kangaroo Valley* in the Illawarra District is the Place that I have selected for this purpose—no person, although it is well known to the Colonists, have ever yet applied either for

Necessity for concessions to compete with studs in Bengal.

Request for lease for term of years with right of purchase.

Land requested at Kangaroo valley.

* Note 180.

1837.
13 Jan.

Advantages
of Kangaroo
valley.

a Grant of Land or for a Lease of any part of this Valley, nor have ever attempted to settle in it. The very high Mountains that surround it on every side render it useless for all Agricultural purposes; but this very circumstance increases its value to me, as no Horse could ever stray away from it. The ascent is by a very narrow, circuitous, and intricate Pathway as steep as that of Mount Vesuvius at Naples; we were three hours ascending it. As the Madras Government only pay me for the Horses after they have been passed by the Committee at Madras, I am obliged to furnish from Private Funds all that is required to purchase the young Colts, and my means are not sufficiently large to make this advance, and allow me, at present, to purchase Land to any extent. It may not perhaps be deemed ill-advised to consider for a moment the relative situations of Bengal and New South Wales as to the supplies of Horses.

Particulars
re supply of
remounts
from Bengal.

Four Hundred and thirty Rupees, equal to Four Hundred and fifty six Rupees Madras, are charged to Government for every Horse reared at the Bengal Studs, and passed by the Cavalry Committee as fit for Cavalry purposes. To the Sum of Four Hundred and thirty Calcutta Rupees, the travelling expenses of the Horses, besides the Wages of the Groom and Grass cutters (one of each to every Horse) to the different Regiments in Calcutta, will have to be added. In Bengal, there are 3 Government Studs but the Horses are neither so compact or well limbed as those of New South Wales, and the Studs in Bengal frequently undergo heavy Losses from an Epidemic Disease resembling Strangles, but much more virulent and fatal. In the event of Remounts being sent from Bengal to Madras, the distance by Land of any of the Studs is from 1,500 to 1,800 miles. But, should they be marched to Calcutta, or sent by the River Hooghly for embarkation, the distance by the Road would exceed 700 miles, and by Water considerably more, besides in the latter case the chance of the Boats being swamped in the River, an every day occurrence. A Ship of 400 Tons could not hold more than 50 Horses and the least rate of Freight from Calcutta to Madras would be £2 per Ton, equal to £800 sterling for the whole, or £16 per Horse. The Expense of dry Forage is also far heavier at Calcutta than at Sydney. I shall attempt here to enter into a Calculation of the expense attending each Horse by the time he could be landed at Madras from Bengal.

Cost of each
horse landed
at Madras
from Bengal.

ESTIMATE.

	Madras Currency Rupees. Annas.	
First cost of a Horse from the Stud Rs. 430 of Calcutta, equal to at 106	456	—
The Hire of a Boat, holding 16 Horses, at 200 Rs. equal to 212 Rs. Madras proportion for each Horse	13	4
2 months' Wages to one native Groom at 7 Rs. p. month	14	
2 do. do. Grass Cutter at 5 Rs. p. month	10	
Freight from Calcutta to Madras for each Horse £16	183	
Forage for the Voyage averaged at 18 days, Monsoon being favorable	12	
Return of Grooms to Bengal, averaged 6 wks., Monsoon against the proportion for each Horse	25	
Wages from and to Calcutta 2½ Months, each Groom at 7 Rs. each Horse	8	10
Madras Rupees	721	14

To the above would also have to be added a proportion of any Casualties that might occur. By my contract with the Madras

Government, 500 Rs. are allowed for every Horse luded by me, and subsequently passed by the Madras Committee. By this Contract the Government are free from any Loss that may occur, either by Sea Casualties or otherwise. By the estimate as per above	Rs.	As.	1837. 13 Jan.	Terms of contract with Madras government.
Government allowance to me for each Horse	721	14		
	590	—		

Balance in favor of Govt. by the Contract Madras Rupees 131 14

As for any number of Horses being marched from Bengal to Madras direct, I consider the matter almost impracticable from the state of the Roads and unhealthiness of the numerous Jungles, as well from the impossibility of supplying the Horse keepers and Grass cutters (one of each to every Horse) there being no Grazing land in India, with Provisions in places almost destitute of Inhabitants; and the casualties of young horses and even of men, the latter from the Jungle Fever, might possibly be severe. Should my Petition be acceded to, I shall be able to continue to send Horses; and, as the Madras Government will save about £12, being also free from all Loss by Casualties in the purchase of every Horse besides being furnished with better bred, and stronger animals, there will be no doubt of the Preference being given to the Australian Horses. The consequence will be that the Bengal Govt. may eventually be induced to receive their supplies of Horses also from New South Wales, and reduce their Stud Establishments which are an immense expense to the Bengal Government, and for this reason it has been more than once in serious consideration to break them up. I beg further to observe upon the singularity of such an assurance having been sent to Madras, for, until I had proved the practicability of supplying Horses from New South Wales, no person in India ever contemplated it as possible to breed Horses there to such an extent; and, if I am correctly informed, The Stud in Bengal are not able even during a *time of Peace* to furnish sufficient Horses for the Bengal Regiments. I beg now to consider the opposite side of the question. The climate and Pasturage of New South Wales, with its other advantages, are superior to what can be met with in any other Part of the World, and there is a natural tendency in all animals to encrease in size, vide Mr. Dawson's Book on Australia* Page 429. "I observe in Horses, as in all other Animals in Australia, a disposition to encrease in size from the original European and other stocks. This is a matter of great importance to the Production of Blood Horses, which in able Hands may be turned to great advantage, provided that a Market could be found for them in India." Such is the purity of the Atmosphere, that Hydrophobia and Glanders are unknown in New South Wales. I imported in 1834, to improve the Breed of Horses in Australia, Two splendid Arab Stallions, and Fourteen Entire Horses including two more Arabs have been landed at Sydney within the last 2½ years. The young stock are consequently much improved, and are very different from those of 1833. It is also my intention (in the event of my request respecting the Kangaroo Valley being favorably attended to) to ship from London several first rate Stallions and Thorough bred Mares, so as to ensure eventually a sufficient supply of powerful and well bred Colonial Stallions to be distributed through the various Districts during the covering season; this.

Expected results of shipment of horses from New South Wales.

Possibilities of horse-breeding in New South Wales.

* Note 181.

1837.

13 Jan.

Cost of freight
to Madras.

independent of the advantages of the communication with India, will be highly beneficial to New South Wales.

Regarding the freight from Sydney to Madras, I have established the Price, including the Passage and Rations of one European Groom to every 8 horses at £10 per Horse; the reason for this low rate proceeds from there being no Cargo in Australia for India, and the ships are therefore obliged to accept my terms or sail in Ballast.

Claims in
support of
application.

The large sum of money that I have already advanced in proving the feasibility of my Project, the plan for supplying India with Horses having been suggested to the Madras Government and carried into effect by me, and the great Public Benefit to the Colony that is thus promised as well as the sound Policy of throwing the Capital thus expended into a British Colony (for until of late Horses for the Madras and Bombay Cavalry were imported from the Persian Gulf, and the Countries adjacent to it) will, I trust, be duly appreciated. In the Letter from the Madras Government to that of Sydney, dated 9 July, 1833 (a copy of which is annexed hereto), it is admitted that heretofore they had been obliged to depend upon Foreign Markets for the mounts, which were always uncertain and even liable to interruption, and their wish "to throw the money thus expended into a British Colony." These words were taken verbatim from my first Letter to the Madras Government on the subject, and proves that up to that date no assurance had been held to them from the Indian Studs of any supplies of Horses.

I trust that the expense, I volunteered in the voyage to Sydney and in travelling all over the located parts of that Colony, as well as the Capital that has been risked in proving the Soundness of my views and the subsequent entire success of the Project, will have due weight, particularly when it is considered that the granting my Petition will not interfere with the Interest of any Individual in the Colony; but, on the contrary, will absolutely be beneficial more or less to every Settler, and that I solicit the Lease of a Valley, which no other Person in the Colony would either Rent or purchase.

Extended
lease granted
for estab-
lishment of
patent slip.

In further support of this application, I also beg respectfully to adduce the following Paragraph as a Precedent. "Captain Fothergill, of the Merchant Service, Sydney, having applied to the Secretary of State for a Grant of Land in Darling Harbour, containing 32 Perches, worth now about £4,000 sterling in consideration of his having imported to the Colony a Patent Slip, was refused the Grant, but, in consideration of the advantages to the Shipping Interest of such importation, he was allowed vide Dispatch No. 59, dated 7 Feby., 1834, a Lease of the allotment at an annual rent of Twenty Pounds Sterling (£20) for ninety years."

Transmission
of report from
H. Dumaresq.

I do myself the honor of appending a Letter from Colonel Dumaresq, Chief Commissioner of the Australian Agricultural Company, in answer to questions from the Sydney Colonial Government, contained in a Circular issued at the request of the Madras Government for information regarding the proposed supply of Horses, also a private Letter from Co. Dumaresq of a year's later date, also connected with the matter.

I have, &c.,

J. G. COLLINS,

Capt., 13th Light Dragoons.

[Sub-enclosure No. 1.]

1837.
13 Jan.

EXTRACTS from Captl. Collins' Letter dated Bangalore, 8 Augt., 1833, To Henry Chame, Esq., Chief Secretary, Madras.

Sir.

In continuation of the communication which I had the honor to address to you on the 3rd Instant, I now respectfully submit this Letter which I request you will have the goodness also to lay before The Right Honble. The Governor in Council. I beg here to insert an extract from the Regimental Books of D Troop 13th Dragoons, under my command, which shews in the clearest manner the immense expense such light and inadequate remounts, as those of late years furnished, subject the Government to.

Supply of remount horses for single troop.

Horse Book. D Troop, 13th Dragoons.

In the Year 1828	Received from the Commissariat	13	Horses.
do. 1829	do	23	„
do. 1830	do	6	„
do. 1831	do	15	„
do. 1832	do	12	„
		—	
In five years—Total		69	„
		—	

1833. Present strength of D Troop	58
Number of horses now required to complete its establishment	29
	—
Total	87

By the above statement, it will be seen that during the last 5 years, 69 Horses at a cost, taking the mean rate allowed I believe by Government Rs. 500 for Arabs, and Rs. 400 for Country Horses, at therefore Rs. 450. Total Rs. 31,050, have been furnished to a single Troop; that its present strength, notwithstanding such immense supplies, is now so low as 58 including many worn out Horses, several of which will be cast by the annual casting Committee at the end of this year; and that, even reckoning these, there is a present deficiency of its proper Complement, amounting to 29 Horses. The yearly supply of Remount Horses during the Peace for the Madras army may be estimated at 750, including those required for officers, which at the average price for each of Rs. 450 amounts to Rs. 340,500, independent of the disbursements for Farms, Depots, and commissariat officers' allowances, etca.; should the Australian Horses be generally substituted, it is expected, from their superior size, Blood and strength, that the average number of Cast Horses and Casualties will not exceed 8 p. cent.

Annual supply of remount horses for Madras army.

Estimates re use of Australian horses.

The Expense will then be as follows:—

		Horses.
Full Establishment during Peace.	6 Troops of Horse Artillery each at	126— 736
	8 Troops of Dragoons each at	87— 680
	48 Troops of Cavalry (8 Regts., 6 Troops)	75—3,600
	Total	5,016
Average at 8 per cent., on 5,016 Horses p. annum, 401.		
Supposed annual expense for 750 Horses		Rs. 340,500
do allowing 8 per cent. for Australian 401 Horses		180,450

Annual saving to Govt., not including Farms, Depots, etc. . . Rs. 160,050

Without taking into consideration the difference in value between the High bred Australian and that of the present undersized and

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generally speaking common country Horse. By a return of all the Horses that have joined D Troop since its arrival in this country in 1819 to 1832, a period of 13 years, I find the average length of service of the Troop Horse to be $5\frac{1}{2}$ years. The mounted Force of the Madras Army during the War amounted to 8,000 men, and, in the year 1819, the Commissariat supplied the Army with 3,550 Horses.

J. G. COLLINS, Captn., 13th Dragoons.

(A true copy) :—J. G. COLLINS, Captn., 13 Drgs.

[Sub-enclosure No. 2.]

MR. R. CLERK TO CAPTAIN COLLINS.
Military Department,

Sir, Fort St. George, 9 August, 1833.

I am directed to acknowledge the receipt of your Letters of the 3rd June last and 3rd Instant.

Consideration
of problems of
remounts.

The subject of those communications is still under consideration; but the Right Honble. The Governor in Council thinking it possible that your views may be influenced by a Letter, which has this day been addressed to the Colonial Secretary at New South Wales, has instructed me to annex a copy of that Document for your Information.

I am, &c.,

ROBERT CLERK, Secy. to Government.

[Sub-enclosure No. 3.]

MR. R. CLERK TO SECRETARY TO GOVERNMENT AT
NEW SOUTH WALES.
Military Department,

Sir, Fort St. George, 9 Augt., 1833.

Proposal by
government of
Madras for
shipment of
horses from
colonies.

The Right Honble. the Governor in Council, having been given to understand that Horses fit for Cavalry purposes may be obtained in considerable numbers and at moderate prices in New South Wales, is desirous of securing to a British Colony a large Portion of the Capital, which is now annually expended by this Govt. in the purchase of Horses for the Remount of the Cavalry in a Foreign market, from which we are liable to be cut off either by internal commotions in that Country or by its political events beyond the control of this Govt.

To prevent the possibility of disappointment to persons who may be desirous of sending Horses from Australia to India, I am instructed to request that you will obtain the sanction of His Excellency The Governor for the issue of a Proclamation expressive of the readiness of this Government to take Two Hundred (200) horses, as soon as they can be sent, and the same number during the three following years, if the first importation should be found to answer, at the average rate of Five Hundred and ninety (590) Madras Rupees for each Horse, delivered at this Presidency and passed by a Committee as agreeing with the following description.

All horses to be entire, and at least half bred, sound in wind and limb, compact, active, and capable of carrying 17 stone, not under 3 nor above 7 years old, nor under 14 hands high. Horses above 15 hands are neither desired nor prohibitable.

In conclusion, I am directed to state that this Government will be happy to receive Information as to the present or future probability of Horses, adapted for Cavalry and Horse Artillery, being imported into India from New South Wales or Van Dieman's Land.

I have, &c.,

ROBERT CLERK, Secy. to Govt.

[Sub-enclosure No. 4.]

MR. R. CLERK TO CAPTAIN COLLINS.

1837.
13 Jan.

Military Department,

Sir, Fort St. George, 19 Septr., 1833.

I am directed to acknowledge the receipt of your Letter of the 17 Instant and to acquaint you that any Horses of a proper description, not exceeding 200 p. annum which you may import from Australia within the next 3 years, and which may be passed by a Committee of experienced officers as fit for Cavalry purposes, will not be rejected in consequence of there being an excess of the number mentioned in my Letter to the Secy. to Govt. at New South Wales of the 9th Ultio.

Agreement to accept horses imported by J. G. Collings.

2. The Right Honorable the Governor in Council entertains doubts as to the eligibility of Geldings for service in India, but will not object as an experimental measure to receive 50 among your first year's Importation and to pay for them the same Price as fixed for entire Horses, they of course being subject to a like probation.

I am, &c.,

ROBERT CLERK, Secy. to Govt.

A true Copy:—J. G. COLLINS, Captn., 13 D.

[Sub-enclosure No. 5.]

COLONEL DUMABESQ TO COLONIAL SECRETARY MACLEAY.

Sir, Port Stephens, 10th June, 1834.

I have this day been favored with your Circular Letter, No. 34/22, respecting the exportation from this Colony of Horses adapted for the services of the Indian Government, and requesting to be informed of the numbers likely to answer the above purpose, which could annually be supplied from this district; upon this and the other Points adverted to in your Letter, I will endeavour to reply as briefly as possible. 1st. As it has been customary hitherto to castrate most of the Colts, the number of Horses to be procured at present of the description required must necessarily be very limited. But, having seen Captn. Collins on the subject of his Contract to supply the Madras Cavalry and Artillery with Horses, directions have been given that the Colts bred on the Estate of the Australian Agricultural Company shall in future be kept entire; and, should it be found adviseable, the number of Brood mares may be augmented to almost any extent. I may venture at present to say that Fifty Colts will be reared each year for the next three years on this Establishment, suited for the purposes of the Indian Military Services. After that period, the stud of Brood mares can be progressively increased.

Report re proposed export of horses to India.

Number of colts available.

2nd. I do not imagine that any Horses will be forwarded to India by Individual Proprietors, subject to their acceptance or rejection by a Committee on their arrival. Arrangements similar to those proposed by Captain Collins seems to me to offer almost the only means by which the exportation of Horses from this Colony is likely to be effected. Should the Voyages to India be accomplished without much loss, I see no reason to doubt its successful establishment, as I am of opinion that no part of the world is better adapted than this Country for rearing every description of Horses.

Problem of acceptance or rejection in India.

Prospects of horse-breeding.

3rd. As Captain Collins, I understand, is about to forward to Madras a supply of Horses, the probability of a given number being actually sent is placed beyond all doubt; and it is a matter of much Interest to this Colony that his Experiment prove successful.

Shipment proposed by J. G. Collins.

1837.
13 Jan.
Prospects
of trade in
horses.

4th. The obstacles, which impede the opening of a Trade in Horses with India, are comprised solely in the risk of the voyage; should this risk on trial be found within reasonable bounds, I presume that the difference of prices, at which Horses may be purchased here, and that offered by the Indian Govt., will be sufficient to cover all expenses for their transport, Insurance, etea., and at the same time offer fair remuneration to Parties who may undertake their supply.

I have thus hastily complied with the terms of your circular letter, and I have only to regret that my apparent tardiness in so doing should by possibility admit of a doubt of the readiness with which I consider it my duty to attend to all requisitions of a similar nature, made on the part of the Government.

I have, &c.,

H. DUMARESQ.

Commissioner for managing the affairs of the

Australian Agricultural Compy.

A true Copy:—J. G. COLLINS, Captn., 13th Drgs.

[Sub-enclosure No. 6.]

COLONEL DUMARESQ TO CAPTAIN COLLINS.

My Dear Sir,

Port Stephens, 12 June, 1835.

Proposals by
J. G. Collins.

I have perused the accompanying Papers with much Interest, and with some amusement. I have been pleased with the sanguine and earnest manner in which you proceeded to shew the sincerity of your opinions, and the confidence you felt in the accuracy of your views. I trust that your experience has not materially changed them, but that you still consider it possible to mount the Indian Cavalry from the produce of our Studs, and equip the Artillery with strong and useful Horses. When your Project was first made known here, the Local Government addressed to the Magistrates a Circular Letter, in which was embodied certain queries, I do not know that I can better acquaint you with the opinion entertained by myself on the subject of your spirited undertaking than by handing to you the accompanying copy of my replies to the queries alluded to. After 12 months further experience, I can safely venture to confirm the opinions therein expressed, and I may appeal with confidence to your more extensive acquaintance with the Studs of this country for a confirmation of them.

Prospects of
horse-breeding
in New South
Wales.

I believe that no country in the World is better calculated than this for the development of every known good quality in Horses. If size be a desideratum, they may be bred to attain it, as, within these few last years, Horses of every description have been introduced from the mother country.

The Company's "Cleveland Stock" appears to me to be a most important acquisition; and the mode I pursue with respect to classing the mares *must insure* a race of Horses suited for Carriage Horses or Hunters, such as are employed by our countrymen on the opposite side of the Globe for Town purposes and for following the Fleetest Hounds.

Every year *ought* to produce an improvement in our Studs; but it is a matter of surprise to me that considering the many obstacles, which *at present* obstruct the prosecution of your designs, you should have found encouragement to persevere in them. In the first place, all Horses were castrated. In the next, few Persons

have paid much attention to rearing this description of Stock except for the particular purposes of their Establishments, as Hacks, etc.

You mentioned to me in conversation that Sir W. O'Callaghan entertained some doubts of the practicability of your Plans. I am not at all surprised that he did so! But you may assure him, with my kind remembrances, that, as you have succeeded so well with the transport of the Horses, he need feel no doubts that animals fitted for every purpose of the Indian Army may be procured here, if Proprietors find it to their advantage to breed them. I trust that we shall soon see you again amongst us, and I wish you a happy and prosperous voyage.

H. DUMARESQU.

A true copy:—J. G. COLLINS, Captain, 13th Dragoons.

1837.
13 Jan.

Prospects of horse-breeding in New South Wales.

[Enclosure No. 2.]

SIR GEORGE GREY TO CAPTAIN COLLINS.

Sir, Downing Street, 24 Feby., 1836.

I am directed by Lord Glenelg to acknowledge the receipt of your Letter of the 13th Instant, in which you state that you have entered into an arrangement with the Madras Government for the supply of Horses from New South Wales; and you solicit that, in order to facilitate the execution of that arrangement and to render it permanent, you may be allowed to lease a portion of Land for a certain number of years at the rent established in the Colony, with permission to purchase at the expiration of the Lease the whole or any part thereof, as you may find convenient, at the minimum price at which Land is sold in the Colony, viz., 5s. an Acre; The permission to purchase being requested, as you state, in consideration of the heavy outlay which would be required in putting up the numerous Fences, felling timber, clearing the Land and erecting Buildings, etc.

Application for lease of land acknowledged.

In reply Lord Glenelg directs me to state that this is a question involving so many local considerations, that his Lordship cannot decide upon it without a previous reference to the Governor of New South Wales. Lord Glenelg will, however, authorise Sir R. Bourke, if he should think that the scheme promises an adequate advantage to the Colony, to place you in the temporary possession of a sufficient quantity of Land upon which to commence your undertaking.

Reference of application to governor.

Provisional lease to be granted.

But any arrangement, which may be so made by the local Authorities, must be considered provisional only, and subject to the final declaration of His Majesty's Pleasure after the Governor's report shall have reached this Country.

I am, &c.,
GEO. GREY.

[Enclosure No. 3.]

CAPTAIN COLLINS TO LORD GLENELG.

My Lord, London, 10th June, 1836.

I have the honor to acknowledge the receipt of the Letter dated 24th February last, written by your Lordship's Secretary Mr. G. Grey, in reply to mine of the 13th of the same month; but, as the condition of reference to Sydney and subsequently to England, therein stated, would cause such delay as might frustrate the Plan proposed, I hope to be excused for again soliciting the attention of your Lordship to the subject of my occupation of Land in New South Wales.

Objections to delay in decision.

1837.
13 Jan.

Objections
to delay in
decision.

As the Madras Government does not pay for the Horses it has agreed to purchase until they are delivered at Madras (The necessary advances at Sydney being made from my private funds), and as those suitable for Cavalry purposes particularly for the Dragoons and Artillery must be bred from the most select stock, it is evident that, in order to effect the required supply, a considerable capital must be involved before any returns can be received; and, as by the conditions in your Lordship's Letter a possibility of rejection is entertained, although it is scarcely probable that such should occur as the Project has had a fair and successful trial, still it is necessary to consider that a possibility of such rejection exists, and that thereby the Capital involved might become of comparatively little value.

Necessity for
thoroughbred
horses in
colony.

I beg to state to your Lordship that the principle step now required to be taken for the improvement of the Breed of Horses in N. S. Wales (in this opinion His Excellency Sir R. Bourke agreed with me) is the Importation of some strong Thorough bred Stallions and Mares of a description better calculated for Hunting than Racing, so that powerful well bred stallions may be reared in the Colony, to be distributed during the season throughout the various districts. Such Horses I shall immediately purchase and send out, should the measure I shall now do myself the honor to submit meet with Your Lordship's approbation. To avoid the great delay, embarrassment and uncertainty that the References to Sydney, etc., would cause, and to enable me to enter at once actively on the business, I beg to solicit that your Lordship will be pleased to Grant me the Power To Select and Purchase in The Kangaroo Valley, Illawarra District. Ten (10) Sections of Land at the average price at which the Crown Lands in that District have been sold, since the commencement of Sir R. Bourke's Government, or, if none has been sold, Then at the minimum Government price of Five shillings per acre, payable in Fifteen years by Ten Annual Instalments. The first to commence on the expiration of the fifth year.

Request for
permission to
purchase land
by annual
instalments.

Reasons
for request.

Your Lordship will perceive that the first object, I now desire to attain, is the avoidance of that reference from Sydney to England mentioned in your Lordship's letter, which I hope on further consideration will be deemed unnecessary, as, fettered with such uncertainty, I could not prudently advance a single step. My second object is to obtain due time to pay the Purchase money for the Land.

The Public good that must result not only to Sydney but likewise to Australia generally, should my Project be persevered in, and the ready market in India that has been thrown open by Individual Enterprise at the risk and Expenditure of private capital, emboldens me to hope that the Arrangement now submitted will meet with your Lordship's sanction, particularly as the Terms herein proposed are so fair and just as to preclude their being considered as in the least injurious to the Public or even to any Private interest, but on the contrary that the Colony at large as well as India must be benefitted by this measure being carried into full effect, Australia profiting by the Expenditure of large sums of Money heretofore disbursed for such purposes in Foreign states, and India benefitting from the Increased efficiency of its Army.

I have, &c.,

J. G. COLLINS, Captn., 13th Regiment.

[Enclosure No. 4.]

1837.
13 Jan.

SIR GEORGE GREY TO CAPTAIN COLLINS.

Sir,

Downing Street, 14 June, 1836.

I am directed by Lord Glenelg to acknowledge the receipt of your Communication of the 10th Instant, and to state in reply that his Lordship sees no reason to change the decision conveyed to you by my Letter of the 24th of February last, relative to the facilities which you are desirous to have accorded to you in furtherance of your project of breeding horses in New South Wales for the East India Company's Cavalry.

Inability to alter decision.

I am, &c.,

GEO. GREY.

[Enclosure No. 5.]

CAPTAIN COLLINS TO LORD GLENELG.

At Sea, Off Portsmouth, Ship Hope.

My Lord,

2nd January, 1837.

I have the honor to report to Your Lordship that I have embarked in the Ship Hope for Sydney to continue the exportation of Horses from thence to Madras.

Departure of J. G. Collins from England.

I beg to state that the Reports from the Artillery, Dragoons and Cavalry Regiments at Madras have been received at the India House upon the Australian horses that I sent from Sydney after one year's trial of them. These reports all concur in stating that the Australian Horses possess good constitutions and tempers, are good feeders and tractable, Docile and steady at their work. Some of the Reports describe them as being far superior and of more value and likely to be more serviceable than the General Remount horses that have been heretofore furnished.

Reports from India re Australian horses.

I beg to submit to your Lordship that three important facts relating to the experiment for the supply of the Madras Army of Horses from New South Wales are now fully established. 1st, viz., The facility as to the transportation of the Horses from Sydney to Madras. 2ndly, That the constitutions of the Australian Horses have been found upon due trial to be admirably adapted to the climate of India. 3rdly, That their tempers, strength and efficiency are acknowledged to be superior to the Horses, heretofore provided for the Madras Army.

Facts in proof of success of export of horses.

It is perhaps unnecessary for me to state to your Lordship that it was upon the three essentials above enumerated that any doubts were entertained of the success of my project. The result has been as satisfactory as I had anticipated in my first communications to the Madras Govt. upon the subject; and there can be now no longer any possibility of failure in further proceedings, provided that I meet with due support from His Majesty's Govt.; and I have now to solicit that Instructions may be forwarded to His Excellency Sir R. Bourke for authority for me to occupy the land in the Kangaroo Valley, Illawarra District, upon the conditions stated in Sir G. Grey's letter, dated 24th Feby., 1836.

Request for land.

I beg also to state to your Lordship that, in conformity with my letter to your Lordship, dated 13th Feby., 1836, I have shipped in the Hope a splendid Thorough bred horse of great Muscular Powers and perfect symmetry, His Sire the celebrated Horse Sultan and Dame, Fila da Puta. There was no room for another horse; but I have entered into arrangements for powerful Blood Sires and Mares to be sent to me from England from time to time.

Thoroughbred horse shipped to colony.

1837.

13 Jan.

Agent for
J. G. Collins.

As there will be no possibility of my being favored with an answer from your Lordship in England, I do myself the honor to request that any communications to me may be addressed to W. Hart, Esq., 23 Dorset Square, New Road, who has aided and cooperated with me throughout and who has full powers to act in my name in London.

I have, &c.,

J. G. COLLINS.

SIR RICHARD BOURKE TO LORD GLENELG.

(Despatch No. 7, per ship Red Rover; acknowledged by lord Glenelg, 26th July, 1837.)

25 Jan.

My Lord,

Government House, 25 January, 1837.

Inquiry *re*
encounter of
expedition
under
T. L. Mitchell
with natives.

In my Despatch of the 15th Novbr. last, No. 122, I had the honor to inform Your Lordship that I proposed, on the return of the Party which accompanied the Survr. General on his last exploring expedition, to institute an enquiry into his proceedings towards the Aboriginal natives whom he met on the Banks of the Murray. The investigation took place before the Executive Council, whose Minute on the subject, together with an Appendix containing the Evidence, I have now the honor to transmit. A Copy was sent to the Sur. Genl. immediately after the enquiry, and he was informed that another would be laid before Your Lordship; I did not then intend that the Minute should be published here, conceiving that it would not be agreeable to the Survr. General; but, finding that partial extracts from it calculated to mislead the public appeared in the Newspapers, and being applied to by the Survr. Genl. for leave to publish his own account of the matter, I thought it better to cause the whole of the Minute and evidence* to be printed in a Separate Gazette.

I transmit the further Memorandum* of the Survr. General in vindication of his proceeding, which he has received liberty to publish in pursuance of his application. This, together with the Minute of Council and Evidence, will place the whole case before Your Lordship, and no further explanation on my part appears to be required.

I have, &c.,

RICHD. BOURKE.

[Enclosures.]

[Copies of these papers were printed in the "Government Gazette."]

LORD GLENELG TO SIR RICHARD BOURKE.

(Despatch No. 256, per ship Hebe.)

26 Jan.

Sir,

Downing Street, 26 January, 1837.

Transmission
of circular
despatch.

I have the honor to transmit to you herewith a Circular Dispatch, which I have addressed to the Governors of Colonies having representative Assemblies, in forwarding the Annual

* Note 182.

Blank Blue books. You will perceive that the purport of this Circular is to convey an instruction to those Governors, to whom it is addressed, to lay annually before their respective Legislatures a Triplicate Copy of these Returns.

1837.
26 Jan.

In conformity with this arrangement, I have to request that you will take care to lay annually before the Legislative Council of New S. Wales a Copy of the Blue Book of your Government. It is highly proper that the Council should have access to these Returns, and the knowledge that they will be subjected to the scrutiny of that Body will serve as an additional motive to correctness, to those officers in the various Departments, to whom you must look for the details of which the Blue Book is composed.

Annual "blue book" to be submitted to legislative council.

I have, &c.,

GLENELG.

[Enclosure.]

LORD GLENELG TO SIR RICHARD BOURKE.
(A circular despatch.)

Sir, Downing Street, 2nd November, 1836.

I have the honor to transmit to you herewith 9 blank Copies of the Book of Returns denominated the Blue Book. They are in Original, Duplicate, and Triplicate, and are intended as a supply for those Returns for the present year, for the year 1837, and for 1838.

Transmission of blank copies for "blue book."

Application has been made by several of the Colonial Assemblies for a copy of these Returns; and, in accordance with that request, I have transmitted the Blue Book in Triplicate, which copies you will annually lay before the Legislature in the Colony under your Government, at the same time that you forward the Original and Duplicate to this Office.

"Blue book" to be submitted to colonial assemblies.

The manner in which these Returns have been hitherto completed has been, generally speaking, far from satisfactory; but I am induced to hope that, by thus acceding to the request of the Assemblies, and by giving publicity to these Returns in the Colonies, many of the errors, which I have discovered in them, will for the future be rectified, and that, where errors exist in consequence either of the unwillingness of those whose duty it is to supply the necessary information to the Colonial Secretary, or the neglect of that officer to fill up the Returns in an efficient manner, the Legislature will pass such Laws as they may deem proper to enforce the due execution of these Instructions.

The various Circulars and Despatches, which have emanated from this Office at various times respecting these Returns, sufficiently indicate the importance which is attached to their correct compilation. To these Despatches and to the Memorandum which precedes each Return, I refer you for the manner in which they are required to be filled up; and I will only add in conclusion that I am desirous of having the Blue Book for the year sent home as soon as possible after the month of December.

I have, &c.,

[*Unsigned.*]

1837.
27 Jan.

LORD GLENELG TO SIR RICHARD BOURKE.
(Despatch No. 257, per ship Hebe.)

Sir, Downing Street, 27th January, 1837.

Problem of
contracts for
supply of
convict stores.

Annual supply
of convict
clothing from
England.

The Lords Commissioners of the Treasury have communicated to me Copies of a Correspondence which has taken place between that Department and the Board of Ordnance, and the Ordnance officers in New South Wales, on the subject of the difficulty which has been experienced in obtaining in the Colony satisfactory contracts for supplies of Convict Stores, and in procuring in that manner Stores of a proper description and quality. Under these circumstances, their Lordships have intimated to me that they have made arrangements with the Master General and Board of Ordnance for the transmission from this Country of the Articles required to complete the issues of Convict Clothing in New South Wales for the year 1837, and that they have also signified to the Board of Ordnance their opinion that it will be adviseable to revert to the system of forwarding the annual supplies of Clothing to the Colony on the Public account; and, in making this communication to you, I have to add that, from the statements now before me, it appears that there has been no alternative but to adopt this course.

I have, &c.,

GLENELG.

SIR RICHARD BOURKE TO LORD GLENELG.

(Despatch No. 8, per ship Red Rover; acknowledged by lord Glenelg, 3rd July, 1837.)

30 Jan.

My Lord, Government House, 30 Jan., 1837.

Despatches
acknowledged.

I have been honored with your Lordship's Despatches of the 11th August last, which reached this Colony on the 19th instant. I lost no time in complying with the Instructions they convey, Mr. Riddell having been furnished with a copy of the Despatch No. 181 on the 23rd and summoned to Council on the 28th, on which occasion I did not attend.

Appearance of
C. D. Riddell
before
executive
council.

Although unable to acquiesce in the conclusion at which Your Lordship has arrived as to the character of Mr. Riddell's offence, and the notice it merits, it would not become me to make any remark upon Your Lordship's decision, except so far as may be necessary to the Explanation of my own conduct and motives. To this I trust Your Lordship will find the following observations limited.

Disagreement
with decision
re case of
C. D. Riddell.

With regard to the paragraph adverting to Mr. Riddell's complaint of my having with-held a part of his correspondence, I transmit a Copy of a letter from the Colonial Secretary to

Mr. Riddell, explanatory of this circumstance, from which it will appear that no omission is attributable (as your Lordship supposes) to the officer employed in making up my Despatches. With respect to Mr. Riddell's answer to that Letter, of which I transmit a Copy, I would merely observe that I can perceive nothing in the Colonial Secretary's Letter of the 7th December which ought to have misled him, and that it is more than probable his subsequent enquiry as to the transmission of his letter of the 4th was prompted by the discovery that the Colonial Secretary's had not the signification it now suits his purpose to attribute to it.

With respect to Your Lordship's observation that my most accurate course "*would have been* that of leaving Mr. Riddell's place in the Council unfilled," and to other Expressions assuming that I appointed a successor to Mr. Riddell, I am sorry that Your Lordship should have received an impression so contrary to the fact. I have in vain sought for its origin in the correspondence forwarded by me from hence. I submitted, indeed, for consideration, the name of a Gentleman who, in my judgment, would have satisfactorily discharged the duties of the office, had His Majesty been pleased to appoint him to it; but I never for a moment thought of placing him in the Council unless in obedience to His Majesty's Commands. On this subject I had carefully consulted my Commission and Instructions, and was fully aware of my want of power to fill the vacancy caused by Mr. Riddell's suspension, unless in the event of there not being a sufficient number of Councillors to form a Quorum.

I did not, indeed, feel the difficulty suggested by Your Lordship as to my power of excluding a Member from the Council without depriving him at the same time of the office in virtue of which he holds his seat. The language of my Commission* authorizes me to suspend any Member of the Council from "sitting, voting, or assisting therein." By my Instructions, the Colonial Treasurer is declared to be a Member of Council; therefore the Colonial Treasurer may be suspended from sitting, voting or assisting therein. This construction renders the words of my Commission and instructions consistent and reasonable. If a simultaneous suspension from the office, by which each Member of the Council is designated in the Instructions, were held to be necessary to suspension from "sitting, voting or assisting," such a construction would render it impossible to act at all upon this part of my Commission with reference to one of the Councillors, I mean the officer of the Land Forces next in command, whom I cannot, by my own authority, deprive for a time of his Military Rank.

1837.
30 Jan.

Omission of letter from C. D. Riddell in enclosures to despatch.

Denial of appointment of successor to C. D. Riddell in executive council.

Interpretation of powers to suspend executive councillors.

* Note 183.

1837.
30 Jan.

Power to
suspend
treasurer.

Reasons for
suspension of
C. D. Riddell
as executive
councillor but
not as colonial
treasurer.

The suspension of the Treasurer might, I submit, have been continued during my administration, or as long as His Majesty pleased; or He might have been removed from the Council by the process which Your Lordship now considers necessary to introduce with a view to future Exigencies, and, as I apprehend without any injustice from what Your Lordship considers a retrospective operation. To have adopted the lenient course of removing him from the Council without depriving him of his Office might surely be considered as mercy, not injustice.

In this view of the case, I abstained from suspending Mr. Riddell in his capacity of Treasurer, although I am free to confess that, considering the quality of his offence, this forbearance was contrary to general Expectation. I had, however, no desire to subject him to a pecuniary loss, nor did I deem it necessary to avoid the ordinary official intercourse with him which results from his employment as Colonial Treasurer. It was his continuance in the capacity of my Confidential Adviser and "Assistant in the Government" that I felt to be incompatible with my own honor and His Majesty's Service. Acknowledging the justice of Your Lordship's observation that, in his place as an Executive Councillor, Mr. Riddell owed to me "that duty which a Colleague in office owes to the Head of the administration under which he serves," I acted on the conviction that a public defiance of this obligation, following in the train of habitual and contumelious misrepresentations of the measures of my Government, scarcely less disguised, had totally severed the confidential relation which should have subsisted between us, and rendered Mr. Riddell's removal from the Council, or mine from the Government, an indispensable alternative.

Reasons for
conditional
resignation by
Sir R. Bourke.

On these grounds maturely considered, I thought it my duty to tender my conditional resignation at the time of preferring my complaint. At this distance from England, I did not perceive how I could otherwise provide an escape from the personal indignity and public mischief which I felt would be occasioned by Mr. Riddell's restoration to the Council of the Colony pending my administration of its affairs. I lament that Your Lordship has not appreciated my motives in thus offering my resignation, and that I am in consequence most unexpectedly placed for a time in the position I so earnestly sought to avoid.

The expressions of confidence and approval with which Your Lordship has honored me, and a grateful recollection of the many favors I have received at Your Lordship's hands and from His Majesty's Ministers render it extremely painful to oppose Your Lordship's wishes for my continuance in office. But a sense of what is due to my character, the opinion of my friends, and I

may almost say the voice of the Colony declare that I ought not to maintain with Mr. Riddell those confidential relations which for the good of the service should subsist between the Governor and all the Members of the Executive Council.

1837.
30 Jan.

Such being the case, I have again most respectfully to entreat His Majesty's gracious permission to resign this Government; and I trust I shall not be deemed importunate, if I request it may be signified by the earliest opportunity.

Resignation by
Sir R. Bourke.

I have, &c.,

RICHD. BOURKE.

[Enclosure No. 1.]

COLONIAL SECRETARY THOMSON TO MR. C. D. RIDDELL.

Sir, Colonial Secretary's Office, 23rd January, 1837.

In pursuance of Instructions from Lord Glenelg, I am directed by the Governor to transmit to you a Copy of His Lordship's Despatch, dated Downing Street, 11th August, 1836, addressed to His Excellency and received by the Fortune on the 19th instant.

Transmission
of copy of
despatch.

With reference to the first paragraph of the Despatch, I am directed to point out to you an error, into which the Secretary of State appears to have fallen with respect to the omission of certain Documents in His Excellency's Despatches of the 2nd and 26th December. Those Documents, two in number, were not omitted by any mistake of the officer; who makes up His Excellency's Despatches. It is obvious they could not be sent with the former Despatch, closed on the 2nd December, as the earliest of them was not received at the Colonial Secretary's Office until the 4th of that month. The Despatch of the 26th was written for the mere purpose of covering a letter afterwards received from you for transmission to Lord Glenelg. With this and the other letters you stated you had written to Lord Glenelg (but of which the Governor as you are aware waved the perusal), you had full opportunity of sending all the papers which you deemed important to your case, and the letters calling for this explanation appear to have been among them.

Denial of
omission
of letters as
enclosures
to despatch.

I have, &c.,

E. DEAS THOMSON.

[Enclosure No. 2.]

MR. C. D. RIDDELL TO COLONIAL SECRETARY THOMSON.

Sir, Colonial Treasury, 25 January, 1837.

I have the honor to acknowledge the receipt of your letter of the 23rd instant and of the copy of a Despatch from Lord Glenelg, addressed to His Excellency the Governor, dated Downing Street, 11th August.

Letter
acknowledged.

With reference to the explanation of the first paragraph of that Despatch, I have to observe that I received a letter from the Colonial Secretary, dated 7th December, 1835, in which he states:—

"His Excellency has transmitted, by the mail now making up for England in a Despatch to the Secretary of State for the Colonies, Copies of your letters and of mine to you on the subject of the late election for Chairman of the Quarter Sessions and of your suspension from the Executive Council."

Statement
re letters
transmitted.

1837.
30 Jan.

Alleged
contradiction
in statements.

It will be seen that my letter without date, but acknowledged as received at the Colonial Secretary's Office on the 4th December, was the only one in which any mention was made by me of my suspension from the Executive Council and was an answer to the Colonial Secretary's letter of the 1st December announcing the Governor's decision on that point; therefore in fact it formed the only part of the correspondence written by me on the subject of my suspension, and as such I conceived it had been forwarded.

Again I was informed in the same letter of the 7th that the mail was then making up, and, as my letter was received on the 4th, I could only come to the conclusion that it had accompanied the Governor's Despatch.

It was not till the 30 January following that, in answer to a post-script in a letter addressed by me to the Colonial Secretary on the 28th, I was informed that the letter, I addressed to him on the 4th December in reply to his of the 1st as also his of the 7th December, had not been sent, as the Despatch to the Secretary of State was closed before the receipt of my letter of the 4th.

As there appeared some difficulty in reconciling the two Statements, and as the omission might have appeared to Lord Glenelg very careless and consequently disrespectful, I wrote to His Lordship on the 31st January, pointing out the circumstances under which it had arisen, forwarding at the same time copies of the letters in question.

I have, &c.,

C. D. RIDDELL.

SIR RICHARD BOURKE TO LORD GLENELG.

(Despatch No. 9, *via* Hobart town.)

31 Jan.

My Lord, Government House, 31 January, 1837.

Appointment
of G. King
to procure
emigrants.

Referring to the Despatches by which I have recommended the Employment, as agents for selecting and bringing out Emigrants, of Naval Surgeons who have come to this Colony in charge of Convict Ships, I have the honor to state that I have furnished Gilbert King, Esq., M.D., with Instructions for obtaining Emigrants from the Western Counties of England, which he has been desired to lay before your Lordship for approval and final orders.

I have, &c.,

RICHD. BOURKE.

LORD GLENELG TO SIR RICHARD BOURKE.

(Despatch No. 258, per ship Mangles.)

7 Feb.

Sir, Downing Street, 7th February, 1837.

Despatch
acknowledged.

I have received your Dispatch No. 79 of the 25th July last, reporting the conditions on which you had allowed Mr. R. Dixon to return to England on leave of absence. In reply, I beg to acquaint you that, in consideration of the length of Mr. Dixon's Services, and of the testimony borne in his favor by the Deputy Surveyor General, I have been induced to grant Mr. Dixon two

years' leave of absence from his duties as an Assistant Surveyor, and to allow him to draw one half of his Salary during that period.

1837.
7 Feb.

Leave of absence granted to R. Dixon.

I have caused a communication to that effect to me made to Mr. Dixon.

I have, &c.,
GLENELG.

LORD GLENELG TO SIR RICHARD BOURKE.
(Despatch No. 260, per ship Mangles.)

Sir, Downing Street, 9 Feb., 1837.

9 Feb.

I have the honor to transmit to you a Copy of a Letter which has been addressed to me by the Secretary to the British and Foreign School Society enclosing the first report of the Australian School Society, and requesting the assistance of His Majesty's Government in aid of the Society at Sydney. I also transmit a copy of the reply, which I have directed to be returned to that Communication which will place you fully in possession of my views on the subject to which I refer.

Correspondence with British school society.

I have, &c.,
GLENELG.

[Enclosure No. 1.]

MR. H. DUNN TO LORD GLENELG.

British and Foreign School Socy.,
Boro' Road, 12 Jany., 1837.

My Lord,

I am directed by the Committee to lay before Your Lordship the accompanying Report* of the Australian School Society. That report, your Lordship will perceive, contains a copy of a Memorial presented to His Excellency the Governor for aid in the Establishment of Schools on the principles of the British and Foreign School Society.

Transmission of report of Australian school society.

The Committee regret to find, from His Excellency's answer to the Memorialists, that there was at that time no appropriate fund out of which payments in aid of the Institution could be issued. By a recent communication, they are happy to learn that, in conformity with a Despatch of Your Lordship's, Major General Sir R. Bourke has felt justified in allowing to the parties a sum equal to their own annual subscriptions.

Subsidy granted to society.

Owing to local circumstances however that sum does not exceed £95 15s., and there does not appear much prospect of any considerable increase. As the Committee are happy to know that the principles of the Society meet with the full approbation of His Majesty's Government, they have thought that it might not be improper to bring under your Lordship's notice the peculiar circumstances of their friends at Sydney, in order that, if there are any funds at home out of which assistance could with propriety be granted, their claim to aid might be considered.

Request for further assistance.

The Committee feel confident that any sum thus allowed would be carefully and conscientiously disbursed by the parties whose names appear in the printed list of the Committee.

I have, &c.,
HENRY DUNN, Secy.

* Note 184.

1837.
9 Feb.

[Enclosure No. 2.]

SIR GEORGE GREY TO MR. H. DUNN.

Sir, Downing Street, 17 January, 1837.

Letter
acknowledged.

I am directed by Lord Glenelg to acknowledge the receipt of your letter of the 12th Instant, transmitting by the direction of the Committee of the British and Foreign School Society the first Report of the Australian School Society, and requesting the assistance of His Majesty's Government in aid of the Society at Sydney.

Recommendation in favour of society to governor.

Lord Glenelg directs me to assure you of his full approbation of the principles of the British and Foreign School Society and of his anxiety to adopt the most effectual means for extending its influence as widely as possible throughout the British Colonies. His Lordship however regrets that there are no funds at the disposal of His Majesty's Govt. out of which pecuniary assistance could be afforded to the Australian School Society; but he will not fail to recommend the request of the Committee to the favorable consideration of the Governor of New South Wales and to express to him the satisfaction, which it would give His Majesty's Govt. to learn that the largest measure of assistance, consistent with the claims of other public institutions, should be from time to time afforded to the Aust. School Society from the sum appropriated by the Legislative Council of the Colony for the purpose of education.

I am, &c.,
GEO. GREY.

SIR RICHARD BOURKE TO LORD GLENELG.

(Despatch No. 11, per ship Douglas.)

11 Feb.

My Lord, Government House, 11 February, 1837.

Approval of revision of commission of peace.

I have the honor to acknowledge your Lordship's Despatch of the 22 August last, No. 194, by which I have the satisfaction of learning that His Majesty is graciously pleased to approve of the revision of the Commission of the Peace for this Colony, which took place at the beginning of last year. I have communicated Your Lordship's observations on this measure to the several Parties, whose remonstrances against it are thereby answered.

Opinion *re* deference due by officials;

I cannot render my thanks for the support afforded me by this approval and by Your Lordship's observations on the measure without at the same time acknowledging the justice, which has been done me in presuming that I entirely concur in the opinion expressed by Your Lordship as to the nature and extent of the deference to be required from the Ministerial Officers under my authority, and the distinction to be made between those holding a political and confidential employment and the subordinate officers of the various public Departments.

and *re* fidelity of officials.

The latter class your Lordship justly observes are not called upon for anything beyond assiduity and fidelity in the discharge of their own appropriate functions and an abstinence from all

such interference in public affairs of whatever kind as might tend to defeat or embarrass the measure of the Govt. which they serve.

1837.
11 Feb.

If I have ever acted towards this class of officers without due regard to the distinction here adverted to, it has assuredly not been by infringing on their privilege of neutrality. Well knowing that some of them expressed very plainly and publickly their aversion from my system of Government and the preference they gave to one of a different character, I nevertheless continued to treat them with attention and respect, and, in the ordinary intercourse subsisting between them and the Government, I am not aware that the slightest indisposition was manifested towards them on account of their general or local politics.

Treatment of
officials by
Sir R. Bourke.

With regard to officers of the former class, Your Lordship with equal truth observes that, as no member of H.M.'s Government holding a political and confidential employment can with reason claim to retain his office any longer than he can conscientiously and cordially support the general course of policy pursued by the Chief Minister of the Crown, so, in the Colony under my Government, no person is entitled to continue in any of those high and confidential places, which entitle him to a participation in my counsels, or which make him essential as an Agent in my measures, unless he can render that support with zeal and constancy.

Necessity for
loyal support
by senior
officials.

With regard to an officer of this class, one holding a high and confidential place under the Government, it has been my unpleasant duty to state that he has not afforded me that support which Your Lordship represents I had a right to expect. I may, I hope, be pardoned if I repeat here that the Colonial Treasurer, who, holding a place in the Executive Council, is classed as a Colleague and Assistant to the Governor has been far from rendering support to my administration with "zeal and constancy." Mr. Riddell has been distinguished from a very short period after my arrival as the open and avowed *frondeur* of the Government, and, in the transaction for which I thought it right to suspend his sitting in Council, he was beyond all doubt the willing tool of a Party opposed to my measures and covertly but knowingly lent himself to their purposes. Your Lordship has been pleased to admit that Mr. Riddell failed to discharge a clear official obligation, which, being the very reverse of that zealous and constant support which Your Lordship informs me I had a right to expect of him, would seem to place him in the predicament of those who, failing in the performance of their duty, "cannot reasonably complain if they be visited with the penalty of such imprudence."

Opposition
from
C. D. Riddell
to government.

I have, &c.,

RICHD. BOURKE.

1837.
12 Feb.

LORD GLENELG TO SIR RICHARD BOURKE.
(Despatch No. 262, per ship John Barry.)

Sir, Downing Street, 12th February, 1837.

Complaint by
E. Walkinshaw
re bounties for
immigrants.

I have the honour to transmit to you copies of two letters, which have been addressed to one of my Under Secretaries by Mr. Ed. Walkinshaw of Liverpool, enclosing a List of the names of certain Parties whom he states to have proceeded in the Ships named by Him with the promise of the Government Bounty to one or other of the Australian Colonies, but for whom payment is alleged to have been refused by the respective Governors for the causes therein specified by him; and requesting that Instructions may be sent for the payment of the Bounties in question to Mr. Walkinshaw's Agents, on proof that the Parties had actually arrived in the Colony and that no payment had been made on their account.

Instructions
re payment
of bounties.

I have therefore to request that, if on enquiry you should be satisfied that those Emigrants, whom Mr. Walkinshaw states to have remained in New South Wales, actually arrived there in the vessels named by him, and that no payment has been made on their account, you will pay the respective bounties, which should have been paid on their arrival in the Colony, to Mr. Deas Thompson on account of Mr. Walkinshaw.

I have informed him that it was not in my power to hold out to him any hope that interest can be paid to his agents on any amount of Bounties which may ultimately appear to be due to him.

I have, &c.,

GLENELG.

[Enclosure No. 1.]

MR. E. WALKINSHAW TO SIR GEORGE GREY.

Sir, Liverpool, 24th Decr., 1836.

In reply to your Letter of 20th in answer to mine of 6th Instant, I am sorry that my communication has not been quite accurate or sufficiently distinct to have been understood. If you will have the goodness to refer to the enclosures contained in my Letter of 2nd Feby., 1836, you will find official certificates of the arrival of the various parties and corroborative of the remarks attached to the names contained in the List annexed to my Letter of 6th with the exception of the inaccuracies about to be noticed. My latest advices from Hobart Town and Sydney confirm the former advices that the respective Governors persisted in refusing to pay the Amounts, on the grounds that *special* authority from the Home Government with my consent was necessary to shew to whom the various sums should be paid. This difficulty may have arisen from the Dispatches for the Mail's Passengers never having reached the Colony; From the Dispatches for parties whose original destination was Van Diemen's Land and who remained in New South Wales, being payable to Andw. Crombie, Esqre., Hobart Town; and for those who under similar circumstances remained at Hobart Town having been made payable to Mr. W. Morgan of Sydney on my account; and very likely in some measure from my having

Possible
reasons for
non-payment
of bounties.

withdrawn my confidence from the late Gentleman, and made the Dispatches per "Lady East" payable to E. Deas Thompson, Esqre., the present Colonial Secretary of New South Wales. Be all this as it may, certain it is all the parties were landed in the Australian Colonies and payment of their Loans and Bounties have not been received.

1837.
12 Feb.

And now that the delay, which has taken place in furnishing me with the means of vindicating my character from the foul stigma attached to it by the misstatements of Lieut. Low, has lost me the opportunity of the highly respectable and advantageous Partnership referred to in my recent Letters, the interests of my Wife and Family make me more than ever importunate, in order that I may receive the money *here* forthwith, in place of having to wait until it can be brought Home from Hobart Town and Sydney. *To accomplish this a Gentleman of first rate respectability and means has kindly volunteered to join me in a Bond of Indemnity for the repayment of the Amount with Interest, should you find on a reference to the respective Governors either that the parties were not landed as represented, or that the monies had been paid to any one on my account.*

Request for immediate payment under bond of indemnity ;

Such an accommodation, while it could not be injurious to the public service, would enable me to embrace a fresh offer which has been made to me, unconnected with emigration. Whereas, if I am refused, I may be unable to re-establish myself in business, so as to support my large Family, until the money has been received from the other side. And it is now above 3 years since I ought to have received it.

Should you, however, be indisposed to render me this important benefit, I most respectfully entreat of you to cause me forthwith to be furnished with a Dispatch addressed to the Governor of New South Wales, directing that the Loan and Bounty Monies of the following parties, with Colonial Interest from the time of their landing, should be remitted to me direct or *paid to Edwd. Deas Thomson, Esqrc.*, Sydney, Secretary of State for the Colony of New South Wales, *on being satisfied that the various parties had landed from my Vessels in New South Wales and of the Money not having been previously paid to any one on my account.*

or for instructions to governor for payment on proof of claims.

Dispatch No.	4	V.D.L.	John Bilb . . .	£20	p. Marriane.
"	13	"	J. Wilkinson .	£20	" Sophia.
"	19	"	Martin Wright	£20	" "
"	26	"	Jas. Bolland .	£20	" "
"	52	"	S. Chapman .	£20	" Mountaineer.
"	53	"	W. Lyons . . .	£20	" "
"	9	"	Janet Brennan	£8	" "
"	10	"	J. MacGowan.	£8	" "
"	11	"	Mary Rainge.	£8	" "

Details of claims.

Remarks.—Payment for these refused because the parties remained in New South Wales. Whereas the Dispatches were made payable to Mr. Crombie on their arrival at Van Diemen's Land.

Dispatch No.	49	N.S.W.	Thomas Larty	£20	p. Sophia.
"	152	"	D. Stewart .	£20	" Mountaineer.
"	161	"	J. Williams .	£20	" "

Remarks.—These were refused for want of the Dispatches the Parties sailed in the Vessel, but the Dispatches having arrived too late were returned, that the circumstance might be explained. Vide Letter 10 May, 1832.

1837. 12 Feb. <hr/> Details of claims.	Dispatch No. 76	N.S.W. M. A. Dalby .	£8 p. Mail.
	" "	192 " M. Farrell ..	£20 " "
	" "	193 " R. Browne ..	£20 " "
	" "	195 " James Trimly	£20 " "
	" "	196 " Abel Chesty .	£20 " "

Remarks.—These all sailed in the Mail and accompanied by the 2nd of the Pro. Notes; but, the Dispatches having arrived after the Mail sailed, they were forwarded in the unfortunate Jane and Henry, and never reached their destination, and payment on that account with-held.

Mary Ann Dalby was to have gone in the Jane and Henry, but was at her request transferred to the Mail, the Passengers by the former Vessel being chiefly Pensioners of the worst description. J. Williams sailed in the Mountaineer. It was the despatch that arrived too late, and it was returned in my Letter of 10th May, 1832, to be corrected. The name James Trimly has been indistinctly copied and may be wrong, but the number of the Dispatch No. 195 will enable you to trace the parties intended as will the No. 152 enable you to trace Dan Stewart.

Also a Letter addressed to the Governor of Van Diemen's Land directing the following amounts, with Colonial Interest, to be remitted to me direct, or paid to Andw. Crombie, Esqre., Hobart Town, on my account, on being satisfied that the parties had remained in Van Diemen's Land and that the amounts had not been paid.

No. 42	N.S.W. S. Maddocks	£20 p. Wellington.
" 59	" B. Smedley	20 " "
" 75	" R. Burns	20 " "
" 76	" Walter Hobson	20 " "
" 67	" M. A. Minchin	8 " Lavina.
" 153	" J. A. Minchin	20 " "

Remarks.—Refused because the parties remained in Van Diemen's Land, Whereas the Dispatches were payable on my account to Mr. Morgan of Sydney on their arriving in New South Wales.

No. 25	V.D.L. Mary Rankin	£8 p. Mail.
105	" W. Short	20 " "
115	" W. Russell	20 " "
116	" P. Everard	20 " "
117	" E. Rafferty	20 " "

Remarks.—These parties and their Pro. Notes went in the Mail. But the Dispatches, having arrived too late, were forwarded in the unfortunate "Jane and Henry" and never reached their destination in consequence of which the amounts have not been got.

You will see that these Dispatches are indispensable to the recovery of the sums in question, and that I ask them in a form to preclude the possibility of their being paid until the respective Governors have been satisfied. I, however, conclude by again entreating of you to do me the favor of acceding to the proposal contained in the forepart of this Letter. A favor which, while it cannot prejudice the Public Service, would ever be gratefully acknowledged by

Sir, &c.,

EDWD. WALKINSHAW.

[Enclosure No. 2.]

1837.
12 Feb.

MR. E. WALKINSHAW TO LORD GLENELG.

My Lord,

Liverpool, 18th Jany., 1837.

It would have been a favor and much calculated to prevent unnecessary future trouble both on this side and the other, had you, as formerly, enabled me to transmit duplicate Dispatches; but, if you are resolved to deny me this indulgence, I shall feel obliged by your favoring me with the date of your Dispatches, and names of the Vessels in which you send them, in order that I may advise my correspondents accordingly. And I shall further thank you for an answer to that part of my Letter of 7th, which requested that the Dispatches might convey Instructions to pay the various amounts with Colonial Bank Interest from the date of the parties arriving in the Colonies.

Request for details *re* despatches;

and for payment of interest on claims.

I have further to request that the following names and amounts may be included in your order.

Details of further claims.

Jane Rankin	£12	These were Passengers per "Princess Elizabeth." On that vessel putting back they were transferred to the "Lady East." The Dispatches were returned to Mr. Hay for alteration; but it appears Mr. Hay or Lieutt. Low had omitted to forward those Dispatches per "Lady East." in consequence of which payment has been refused.
Hellen Granger	12	
Janet Grey	12	
Ann Hale	12	
Wm. Russell and 2 daughters	44	
4 Miss Murrays	48	
Ann Shorter	12	
Alexander Douglas	20	
James Tait	20	Bounties per "Lady East" not paid for want of Dispatches.
W. H. Vale	20	

£212

For such of these, as may have landed in Van Diemen's Land, have the goodness to direct payment to be made to Andrew Crombie, Esqre., Hobart Town, on my account, and, for such of them as were landed at Sydney, please order payment to be made to E. Deas Thomson, Esqre., on my account both with interest.

Agents to receive payment.

I am sorry I overlooked these in my former application, and that my advices do not enable me to specify in which settlement each individual remained. But Loans and Bounties were awarded to all these Parties, and they all took their departure in the "Lady East"; and of course it must rest with my Correspondents to satisfy the respective Governors of the parties having remained in their Colony before payment can be obtained.

I repeat my regret at this oversight; but I am happy to assure you that no further claim will be made, and I hope this may arrive to save you from the trouble of forwarding more than one Dispatch for the whole.

I have, &c.,

EDWARD WALKINSHAW.

SIR RICHARD BOURKE TO LORD GLENELG.

(Despatch No. 12, per ship Douglas; acknowledged by lord Glenelg, 28th September, 1837.)

My Lord,

Government House, 12 February, 1837.

I have to acknowledge the receipt of Your Lordship's Despatch of the 30th August last, No. 202, with its enclosure

Despatch acknowledged.

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Refusal of
colonial
allowance for
G. Barney.

from the Secy. to the Lords Commrs. of the Treasury containing the refusal of the Board to sanction a Colonial Allowance of £500 a year to Captn. Barney, Commg. Royal Engineers at this station, in remuneration of Colonial Services.

When I recommended the allowance to the Commanding Royal Engineer, which has since been voted to him by the Legislative Council, I was not apprized of the letter of the 22nd May, 1835, addressed to Mr. Hay by Mr. Baring, to which reference is made in Mr. Spearman's Letter of the 30th August last. I find however, by a Treasury Letter of the 2 July, 1835, of which I have just received a Copy from Captn. Barney, herewith transmitted, that the question of this allowance was then understood to be open, the Lords Commrs. of the Treasury expressing their willingness to entertain any proposition the Governor of New South Wales might see fit to submit for the remuneration of that officer.

Proposed
colonial duties
for G. Barney.

Had I been aware of this correspondence, I should have thought it necessary, in recommending the allowance for Captn. Barney, to have stated more fully the Colonial duties upon which it is desirable to employ him and for the due performance of which there is no other Person of character and professional ability available to this Government.

Formation of
circular quay
in Sydney cove.

The formation of a Circular Quay in Sydney Cove, both for the convenience of landing goods and for the purpose of preventing the gradual filling up of the Harbour, is a work of great importance which the Colonists have been long anxious to have executed. It requires for its successful performance considerable professional skill and knowledge. The expence will be necessarily very considerable; but, the object being so important to the Commerce of the Place, and the finances of the Colony so prosperous, it is the general wish that it should be immediately undertaken and Diving Bells and other necessary apparatus have been accordingly ordered from England for the purpose.

Completion of
breakwater at
Newcastle.

The Breakwater at Newcastle is another work of great magnitude and importance, which, though commenced long before Captn. Barney arrived, had from want of skill and attention made but a trifling progress towards completion. The work is now conducted upon scientific principles and is advancing with regularity and despatch.

Formation of
pier harbours,
clearing of
Parramatta
river and
control of roads
and bridges.

The formation of Pier Harbours at Wollongong and other parts of this extensive Coast, the removing obstacles in the channel of the Paramatta River, and the charge of constructing and repairing Roads and Bridges throughout the Colony, which, for the reasons contained in my Despatch of the 29 December last, No. 129, I have since the beginning of the year found it expedient to transfer to the Commanding R. Engineer, are

Colonial Services so numerous and so important as to give a just claim to remuneration to the officer performing them.

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By the appointment of two or more Subalterns, Captn. Barney might, it is true, be relieved from some part of the mechanical labor required for the execution of such works as I have described. But the skill and experience necessary to obtain a successful result are his, and he alone is subjected to the responsibility attached to the opinion, which he is required to give before commencing a work and to the Instructions he issues during its execution. For these services, I submit he is entitled to Colonial pay. Such is the opinion of the Master General and Board of Ordnance, who first recommended the allowance to the Treasury. The Colony, I may assert, is most willing to remunerate the services which it so much needs; and, as its present flourishing condition offers ample means for effecting its objects, I trust Your Lordship will facilitate them by procuring the permission of the Lords of the Treasury for the small expenditure from the funds of the Colony required for a Salary to a Competent Engineer.

Opinion in favour of colonial salary for G. Barney.

I have, &c.,

RICHD. BOURKE.

[Enclosure.]

EXTRACT OF LETTER.

Treasury Chambers, 2nd July, 1835.

"With respect to the recommendation of the Master General and Board that a Colonial Salary should be assigned to Capt. Barney, to which they have again called their Lordships' attention, my Lords see no ground to alter the opinion already expressed, which was adopted with reference to the consideration that the services of Officers of Engineers in the Australian Colonies were principally required for Civil purposes. If it should hereafter appear that any extensive Military duties are devolved on the Commanding Engineer, and at the same time that the services he may be called upon to render to the Civil Department are important and involving Material trouble and responsibility. My Lords will not object to entertain any proposition the Governor may see fit to submit for remunerating that Officer."

Decision by treasury re colonial salary for G. Barney.

I am, &c.,

J. STEWART.

LORD GLENELG TO SIR RICHARD BOURKE.

(Despatch No. 263, per ship Mangles.)

Sir,

Downing Street, 14th February, 1837.

14 Feb.

With reference to former correspondence* on the subject of the branch of the Ordnance Department stationed in New South Wales, I have the honor to transmit to you, for your information and guidance, the enclosed copy of a letter from the Secretary to the Treasury with its enclosures on the subject of the future Establishment of the Storekeepers and of the Barrack

Proposed establishment of storekeeper's and barrack departments.

* Note 185.

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Departments at New South Wales; and I beg to call your attention to the concluding paragraph of Mr. Spearman's letter, in which a Report is required from you whether you approve of the arrangements mentioned in the enclosed papers. I am, &c.,

GLENELG.

Report
required.

[Enclosure.]

MR. A. Y. SPEARMAN TO UNDER SECRETARY STEPHEN.

Sir, Treasury Chambers, 2 February, 1837.

I am commanded by the Lords Commissioners of His Majesty's Treasury to transmit to you, in order that they may be submitted for the Information of Lord Glenelg with reference to the correspondence with his Lordship's Department upon the subject of the Ordnance Establishments in the Australian Penal Settlements, Copies of a letter from the Secretary to the Ordnance of the 5th of last December and of the schedule of Establishment for the Storekeeper's Department at New South Wales, of the letter of the 12th of the same month and of the Schedule of Barrack Establishment therein referred to, and of another letter of the 14th covering a Report from the commanding Royal Engineer in the Colony with a Minute of the Inspector General of Fortifications thereon, copies of which also herewith, as well as of the communication made to the Master General and Board of Ordnance upon the subject of these Papers; and I am to request that, in submitting them to Lord Glenelg, you will move his Lordship to cause the Governor of New South Wales to be apprised that the sanction, which has been given to the arrangements proposed by the Ordnance Department, has only been conditional upon their meeting with his concurrence; and that he is therefore to report for the Information of this Board whether these arrangements have received his approval.

I am, &c.,

A. Y. SPEARMAN.

Transmission
of papers *re*
ordnance estab-
lishment's.

Necessity for
approval of
governor.

[Sub-enclosure No. 1.]

MR. G. BUTLER TO MR. A. Y. SPEARMAN.

Sir, Office of Ordnance, 5 December, 1836.

With reference to Mr. Steward's letter of 18 March, 1835, relative to the arrangements to be made in regard to the Ordnance Establishments at New South Wales and Van Diemen's Land.

I have the honor to transmit to you herewith, for the information of the Lords Commrs. of His Majesty's Treasury, a Statement of the Establishment which the Master General and Board of Ordnance, on a consideration of the reports they have received from their officers at Sydney, are of opinion will at the present time be requisite for the efficient discharge of the duties of the Ordnance Storekeeper's Department at that Station; and, in submitting it to the Lords Commrs., the Master General and Board request to be favored with a notification of their Lordships' sanction to the scale of Establishment proposed.

I am to observe that Mr. John Macdonald and Mr. Hynes Lawrence Halloran, hitherto employed in the Commissariat Department at Sydney, will have appointments in the Establishments in contemplation.

I have, &c.,

G. BUTLER.

Establishment
proposed for
storekeeper's
department.

Appointments
for
J. Macdonald
and H. L.
Halloran.

PROPOSED Establishment for the Ordnance Storekeeper's Department at Sydney, New South Wales, formed upon a similar scale to the establishment for Barbadoes, as a 1st Class Station, to which the duties assimilate.

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Establishment proposed for storekeeper's department.

Pay Per Annum.						
	Minimum Salary.	Increase.	Maximum Salary.	Climate Pay.	Lodging and Fuel.	Rations.
Storekeeper	£ 400	£ 20	£ 550	£ 100	as field officer. as Captain.	
Deputy Storekeeper	200	10	330	50		
Clerks {	1st	180	6	200	40	as Ensigns.
	2d	150	6	180	35	
	3rd	120	6	150	30	
	4th	90	6	120	20	
	5th	90	6	120	20	

Office of Ordnance, 5 December, 1836.

[Sub-enclosure No. 2.]

MR. R. BYHAM TO MR. A. Y. SPEARMAN.

Sir,

Office of Ordnance, 12 December, 1836.

I have the honor by Command of the Master General and Board of Ordnance to forward herewith a correspondence received from Sydney on the subject of the duties and the Establishment of the Branch Department in New South Wales.

In requesting you will submit the same to the Lords Commrs. of His Majesty's Treasury, I beg to state that the Master General and Board recommend the Establishment of Persons, proposed in statement B, for conducting these duties at that Station, and also the Rate of Salary and allowances for the Barrack Master considering the extent of his charge; but as soon as Quarters can be allotted for him in Barracks the Lodging Money should cease.

Establishment proposed for barrack department.

It does not however seem certain that one Barrack master can properly discharge the duties at all the stations; and it is a question whether it is desirable any station in that Colony should be left entirely to Barrack Serjeants; the experiment however, it is thought, may be tried in the manner proposed, leaving for consideration hereafter, if necessary, whether the establishment should be increased by an additional Branch of the Third Class.

Instead of a Clerk, a description of Person not generally allowed at the Foreign Stations in the Barrack Department, The Master General and Board would suggest a superior Barrack Serjeant at 4s. per day; and with regard to the Barrack Serjeants' Pay, they deem it reasonable under the circumstances stated in the correspondence; and, as these men will with the exception of the one at Sydney be left in charge of Distant out Stations, that they should be allowed the pay of 3s. per day; but, instead of receiving Lodging Money, they should be allotted a Room or Quarters in the Barracks as soon as possible upon the principle pursued at other stations. For the reasons given in the enclosures, it would seem expedient to send out Barrack Serjeants from this country.

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I have the honor also to enclose, for the reference of the Lords of the Treasury, a Return dated 30 June, 1836, of the construction, occupation, &c., of the several Barracks in the Colony of New South Wales.

I have, &c.,
R. BYHAM.

Establishment
proposed for
barrack
department.

PROPOSED Establishment for conducting the Duties of the Barrack Department in New South Wales.

Station.	Rank.	Pay per day.	Lodging money p. ann.	Allowances.		
				Fuel.	Rations.	Forage.
Sydney.....	Barrack Master...	15/-	asa Field Officer. £20			1 Horse.
	Clerk	4/-			one	
	Barrack Serjt. ...					
Paramatta	Do	} 3/-	£15		one	
Windsor	Do					
Bathurst	Do					
Newcastle	Do					
Port Macquarie..	Do					
Moreton Bay	Do					
Norfolk Island ...	Do					

GEO. BARNEY, Captn., R. Engr., Comr.

RICHD. ROGERS, Storekeeper.

[Sub-enclosure No. 3.]

MR. R. BYHAM TO MR. A. Y. SPEARMAN.

Sir,

Office of Ordnance, 14 December, 1836.

Transmission
of report from
G. Barney.

The Master General and Board of Ordnance having received a Report from Captain Barney, Commanding Royal Engineer in New South Wales, submitting a Statement of the Establishment, Military and Civil, which he considers necessary for an efficient discharge of the duties entrusted to the Royal Engineer Department.

I have the honor to apprise you of the same for the information of the Lords Commrs. of His Majesty's Treasury; and, in transmitting for their consideration, the enclosed copy of Captn. Barney's report and of a Minute thereon by the Inspector General of Fortifications, I am to signify the Master General and Board's request that you will move their Lordships to favor them with their concurrence in what is proposed by the Inspector General previously to the adoption of any further proceedings for giving effect thereto.

I have, &c.,
R. BYHAM.

Report by
G. Barney re
establishment
required for
duties on
ordnance,
treasury and
convict works.

FROM the Commanding Royal Engineer, New South Wales, to the Inspector General of Fortifications, on the subject of the Establishment required for conducting the duties of the Department embracing Ordnance, Treasury and Convict Works.

Sir,

Royal Engineer's office, Sydney, 16 May, 1836.

Finding it impracticable to visit all the Stations in this command under a lengthened period, I am induced no longer to defer submitting a statement of the Establishment, Military and Civil. I consider necessary to an efficient discharge of duty.

The accompanying Paper A exhibits a list of the persons, transferred to the Department by the late Board of Works with reference to this list; I deem it necessary to have a further proof of the efficiency of the Clerk of the Works and Foreman, previous to a recommendation for permanent appointment. I fear however but a small proportion will eventually be recommended. In the meantime, it is necessary the whole be retained as temporary appointments, the circumstances of the Colony being such that Work of the smallest importance cannot be done unless under immediate superintendence, and the state of the Buildings generally requiring unremitting attention in upholding them, until means offer of providing for and obtaining Materials and labor for new Buildings. Such provision will, I fear, be a work of time. Mechanics are scarce (at the high wages of 8s. per day) and material is not to be had when required. Timber must be obtained long before it is wanted for use for the purpose of seasoning; the improper application of unseasoned timber is exhibited in the early decay of the greater portion of the Buildings of this Colony, more particularly the Public buildings, the general character of which shows an evident want of knowledge in construction, bad bricks and lime and unseasoned timber all tending to evince a want of attention or insufficient Superintendence.

The usual class of Contractors are themselves Workmen; they possess no Capital and are only enabled to carry on Work by the Colonial System of Monthly advances of 75 per cent., a system highly pernicious in every sense, more particularly under a deficient or negligent Superintendence; in such cases, it is a premium to fraud.

It is of common occurrence that timber is cut, sawn up, and applied within a few days. The rejection of work under such circumstances has already led to continued dispute and finally to the termination of the Contracts generally entered into without Bond.

On a recent inspection of Work, I was informed that, if Public Work was to be examined that way, the Parties would do no more. A curious method of measurement has also obtained practice highly favorable to the Contractors; of course every possible difficulty will be thrown in the way of introducing the Schedules, which every one is aware must lead to fair and equitable dealing not only for Public but also for Private work.

I am aware that only the most determined and persevering enforcement of the Regulations can overcome the difficulties the department labours under; and I am aware also that the progress must be gradual, and will be a work of time. Paper B is a Statement of the Establishment, I consider necessary to a faithful discharge of duty and effective Superintendence under the circumstances before stated, taking also into consideration the numerous stations (40); and that at the most important there are three distinct Establishments, viz., Military, Convict and Mounted Police (See paper C) requiring prompt and unremitting attention.

It will be observed that in the first instance I propose confining the permanent Establishment to the Head Quarter District. In asking for three officers of the Corps (two for Headquarters and one for Newcastle District) it must be understood that one officer's time must be entirely, and, for a period of at least two years, confined to the Drawing Room, there not being a plan of any description in

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Report by
G. Barney *re*
establishment
required for
duties on
ordnance,
treasury and
convict works.

1837.
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Report by
G. Barney *re*
establishment
required for
duties on
ordnance,
treasury and
convict works.

the office; and, considering an officer more available, I have not included a Draftsman in the list who would otherwise be required.

The Senior Resident officer at Sydney I submit should be allowed Forage for one Horse to enable him to perform the required duty.

I have also to solicit a deviation from the general principle of Extra Pay to officers covering the provision of Lodgings. In this country, it will be seen by Paper D that Lodging is extremely high; in fact I cannot obtain a House, not more than sufficient to cover my family, for less than £150 to £200 per annum, nearly equal to half my income. Taking into consideration also the extreme high price of the general necessaries of life, Clothing, *etca.*, usually equal to 75 per cent., and in many cases of 150 per cent., upon home prices, I trust the Master General and Board will see that an officer under such circumstances cannot exist upon his pay; and, once in debt in this Country, he is irrevocably ruined.

I therefore pray that, while the Country is in such a state as to admit of a more favorable report, officers of the Corps may be granted an allowance of Lodging Money agreeably to their rank (see Paper D) or that when provided with quarters that no stoppage be made for such occupation.

In the permanent Civil Establishment, I propose the pay and extra pay of a 1st Class Station, with the Lodging allowances as granted to the Commissariat Department (see paper D). This allowance shews an increase upon the Army allowances (sanctioned by the Lords of the Treasury) in consequence of that Department having no Mess to resort to, which applies equally to the Civil Establishment; the high prices of Lodging, provisions, *etca.*, applies as before stated.

I have to recommend also that the Senior Clerk of Works at Sydney be allowed Forage for a Horse, which will be necessary to a due performance of the Engineer and Barrack Duties assigned to him.

In reference to the expences attending the Civil Establishment, the Superintendence will almost amount to an equality, as regards the Military and Convict Services. I would therefore propose an equal division of expense. The duty as regards Mounted Police will be comparatively small; and the Superintendence I propose to embrace in the estimate for repairs in special cases; otherwise these Buildings will come under the ordinary routine of Quarterly Inspections, *etca.*

In reference also to the Out Stations, *viz.*, Bathurst, Moreton Bay, and Norfolk Island, they are too isolated to be brought into any District; neither can the work be done by Contract, the two latter being Penal Settlements, and the former too distant and too thinly inhabited to afford the means of executing work except by prisoners of the Crown. It thus becomes necessary to retain a Foreman of Works at each of these Stations; but I do not propose as yet to place them upon the permanent Establishment.

At Moreton Bay, an Officer of the Line holds the appointment of Superintendent of Works; but, as it is essential that a practical man should be employed, I shall submit the question for the approval of the Governor, as soon as I can find a person qualified for the situation. The expense of the above Superintendence I also propose shall form part of the Estimate for repairs, *etca.*, for each station.

I transmit herewith a Map of the Country shewing the different stations, and distinguishing Barracks, Convicts or Mounted Police.

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A reference to the Map will also shew the divisions of the proposed Districts as detailed in Paper B.

The Stockades (19) are not shewn upon the plan as they are liable to removal; the Buildings are portable.

I have, &c.,

GEO. BARNEY, Captln.,

Rl. Engr. Commg.

Forwarded for the information and orders of the Master General and Board. As it does not appear from this Report that the proposed Establishment in Paper B has been considered in concert with the officer administering the Government, conformably with the Treasury Instructions of the 18 March, 1835, communicated in the Master General's and Board's Letter of the 25 of that month, it will be necessary to proceed with that transferred as shewn in Paper A until the course pointed out has been followed; but I beg to bring under attention those parts, which urge the necessity of sending out two additional officers of Engineers, and of affording them such allowance of Lodging Money as shall enable them to meet the heavy expense of that Colony.

Minute attached to report by inspector-general of fortifications.

It seems very evident that a reinforcement of Engineer Officers is necessary for the proper superintendence of the works and repairs, which are unavoidable for the Military and Convict purposes in such a settlement as N. S. Wales; and I need not point out the economy of substituting good superintendence for that under which the results herein reported have obtained.

I therefore recommend immediately sending out an additional officer of Engineers and that Captn. Barney be authorised to obtain assistance in the Colony (probably a Military Officer may be found qualified) for making the plans to which he refers.

In respect to the Lodging Allowance, I recommend the Ranks be respectively allowed the difference between the Rates in Statement D and those fixed for Home Stations by the Master General and Board's order of 18 June, 1819, as the deduction from extra Pay equivalent to Barrack accommodation when supplied to them; and I recommend that each officer of Engineers in New South Wales be allowed Forage for a Horse.

2 December, 1836.

F.W.M.

[Sub-enclosure No. 4.]

MR. A. Y. SPEARMAN TO SECRETARY OF ORDNANCE.

Sir, Treasury Chambers, February, 1837.

The Lords Commissioners of His Majesty's Treasury having had under their consideration your several letters of the 21st of November last, and of the 5th, 12th and 14th of the following month, upon the subject of the different branches of the Establishments of the Ordnance at New South Wales, with the Reports and Returns from the Commanding Royal Engineer in the Colony and from the Inspector General of Fortifications, upon which the suggestions to the Master General and Board with respect to these services are founded, I am commanded by their Lordships to observe that the absence of the Governor's concurrence in the arrangements proposed by Captain Barney and the omission of that officer to comply with his Instructions in that respect, as noticed in the minute of the Inspector General of Fortifications relating to the Engineer Establishment, render it necessary to defer

Letters acknowledged.

Decision deferred pending approval by governor.

1837.
14 Feb.

any definitive directions upon this subject; and these omissions equally prevent their Lordships from giving their sanction to any permanent arrangement with respect to the Barrack and Storekeeper's Departments.

Approval of
appointment of
one engineer
officer.

With respect however to the Royal Engineer Department, my Lords are prepared, on considering the several representations that have been submitted to them, to sanction the proposal of the Inspector General of Fortifications for one additional officer to be sent from this country, Captn. Barney being apprized that he must continue to carry on the Duties of his Department, in other respects with the temporary establishment that has been transferred from the late Department of Works in the Colony, and that he must obtain the assistance suggested by the Inspector General of Fortifications in making the Places referred to in his Report of 16th May. Capt. Barney should likewise be reminded that he should have applied for the Governor's concurrence in the arrangements which he has proposed, and that neither those arrangements nor the further appointments of a Clerk and Foreman of Works from this country will be sanctioned, until the Master General and Board are in possession of the Governor's opinion upon the subject. My Lords are further prepared, in concurrence with the recommendation of the Inspector General of Fortifications, the sanction the allowances of Forage for one horse to each of the officers of the Royal Engineers and of the additional lodging money, equal to the difference between that portion of the Extra Pay of the respective officers, which is assigned for Quarters and the Military Lodging allowance of their Rank, as fixed by the Regulations of the Station; and their Lordships see no reason to dissent from the recommendation of the Master General and Board that the Establishment of the Barrack Department shall consist of one Barrack Master with pay of 15s. per day, one Barrack Serjeant at Sydney with Pay of 4s. per day, and seven Barrack Serjeants at out Stations with pay of 3s. per day each, and the allowances specified in the schedule B. referred to in your letter of the 12th of December, until Quarters can be assigned for them. The appointments of Storekeeper and Deputy Storekeeper, included in the Establishment of that Branch of the Service submitted in your letter of the 5th of December, have been already sanctioned by this Board; and, adverting to the nature and extent of the charge that will devolve upon this Department, their Lordships do not object to the Establishment of Clerks being placed on the scale of a first class station; but they wish to be particularly apprized of the grounds upon which it is proposed that the large extra allowances under the head of "Climate Pay" should be granted to the Storekeepers and Clerks at this station.

Necessity for
approval of
governor.

Approval of
lodging and
forage
allowances;

and of
establishment
for barrack
department.

Query *re*
proposed
"climate pay."

Approval
conditional on
concurrence
of governor.

I am further to observe that the sanction of their Lordships to the proposed Establishments of these two last mentioned Departments is only conditional upon the arrangements being approved by the Governor, to whom their Lordships will cause a communication to that effect to be made: and they therefore request that the Master General and Board will apprize their officers that the Governor's concurrence is to be obtained before the arrangements are proceeded with. With this view of the case, they are also of opinion that it will be proper to await the Governor's communication upon the subject before any persons are dispatched from this country to fill the situations of Barrack Serjeants or Clerks in the Store Department.

I am, &c.,

A. Y. SPEARMAN.

LORD GLENELG TO SIR RICHARD BOURKE.

1837.
14 Feb.

(Despatch No. 264, per ship Mangles; acknowledged by
Sir George Gipps, 24th April, 1838.)

Sir, Downing Street, 14 February, 1837.

With reference to my Dispatch No. 241 of the 20th Decr. last, I have the honor to transmit to you, for your information and guidance, the enclosed copy of a letter from the Secretary to the Treasury on the subject of the allowances, etca., of the Military Medical Officers in charge of the Medical Departments in New South Wales.

I have, &c.,

GLENELG.

Transmission
of letter from
treasury.

[Enclosure.]

MR. A. Y. SPEARMAN TO UNDER SECRETARY STEPHEN.

Sir, Treasury Chambers, 6th February, 1837.

The Lords Commissioners of His Majesty's Treasury having had under their consideration the correspondence with the Director General of Army Hospitals on the subject of the allowances of the Military Medical officers deputed to take charge of the Medical Departments in New South Wales and Van Dieman's Land, submitted to them in your letter of the 19th Ultimo, I have received their Lordships' commands to request you will state to Lord Glenelg that they conceive it would not be in any respect advisable to sanction the adoption of the scale of allowances, granted to Military officers in Ceylon, in either of the Colonies in question; and that they have therefore proceeded to consider the other suggestions submitted in Sir James MacGregor's letters.

Disapproval
of proposed
allowances
for military
medical officers.

With reference to the contingent expenses and allowances adverted to by the Director General in addition to the full Pay of £1 10s. per day to the Deputy Inspector General at the head of the Department, and of 14s. 6d. per day to the Deputy Purveyor, viz., Personal Lodging allowance to both of them, and Command allowance at the rate of 5s. per day, House allowance, Rations, Travelling Expenses and allowance for an office and Clerk to the Depy. Inspector General, I am to request that you will observe to the Secretary of State that, according to the Instructions to the Governors of New South Wales and Van Dieman's Land suggested in the communication* to Mr. Hay of the 5th of March, 1835, their Lordships apprehend that suitable quarters or an equivalent Lodging allowance will have been assigned to these Officers, as well as any Rations to which they would be entitled by virtue of their Military Rank under the Army Regulations; and that the Deputy Inspector General will have in like manner received the regulated Forage allowance. With respect to travelling allowances also, My Lords conceive that they would be granted at the rates payable to Military Officers of Corresponding Ranks, the Governors being satisfied that such expenses were necessarily incurred in the due execution of their respective duties; and I am further to observe that the rates of allowance for Lodging, Forage and Travelling are usually regulated with reference to the actual expense that must be incurred for these respective purposes.

Allowances
proposed for
deputy
inspector-
general and
deputy
purveyor.

As the Medical Officers in question have proceeded to the Colonies to take charge of Extensive existing Establishments, it is most probable that every requisite accommodation and assistance in

* Note 186.

1837.
14 Feb.

Allowances
proposed for
deputy
inspector-
general and
deputy
purveyor.

Full reports
required prior
to approval.

regard to an office and Clerks will be found to have been provided; but, should that prove not to be the case, My Lords will not object to the Governor being authorized to make any necessary provision in this respect; and they are likewise prepared to sanction the further issue of the proposed command allowance to the Deputy Inspector General. But, before they can entertain any proposition for Extra allowances to those officers, their Lordships must await full Reports from the respective Governors as to the new arrangements that may be introduced, and the Duties that will devolve upon the officers when the Establishments placed under their supervision are subjected to those proper Regulations with a view to the enforcement of which they have been selected for the service now intrusted to them.

I am, &c.,

A. Y. SPEARMAN.

LORD GLENELG TO SIR RICHARD BOURKE.

(Despatch No. 265, per ship Mangles; acknowledged by
Sir Richard Bourke, 6th September, 1837.)

15 Feb.

Sir,

Downing Street, 15th February, 1837.

Correspondence
with
South Australian
commissioners
re land at
Port Phillip.

I have the honor to transmit to you, for your information, copies of a correspondence, which has passed between my Under Secretary and the Colonization Commissioners* for South Australia, on the subject of the Settlement and the disposal of the Waste Lands in the vicinity of Port Phillip.

Fixation of
minimum price
for land at
Port Phillip.

Adverting to the discretionary power which was vested in you of fixing the Upset price of the Land in that District, at such a rate as appeared to you advisable, regard being had to the circumstances of the Settlement, it is scarcely necessary to remark that my object was simply to enable you to determine such a minimum price as would prevent the inevitable result of fixing too high a rate, namely, an unauthorized occupation of the Land without purchase, and a consequent dispersion of the Settlers over the Territory.

If, therefore, it should appear that the value of the Land and the demand for it are such as to authorise the conclusion, that it can be sold without difficulty at the price at which Land is purchased in the more advanced Settlements in New South Wales and Van Dieman's Land, it will be obviously unnecessary and inexpedient to put it up for sale at a lower minimum price than that which has been fixed elsewhere. Should the occupation of the Land be required not for Agriculture but for Pasture, it might be very injurious to the future interests of the Colony to allow a large Tract to be acquired in fee simple at a low price. In such a case the obvious course would be, in accordance with the Instructions contained in Lord Ripon's Dispatch of 14 Feby.,

* Note 109.

1831, to let the Lands at a fair Rent from year to year, subject to the condition of their being sold, if applied for, on the usual terms.

1837.
15 Feb.

I am anxious to take this opportunity of calling your attention to the amount of the Minimum price at which Land may at present be put up for Auction in New South Wales. When Lord Ripon first introduced into New South Wales the principle of disposing of the Crown Lands by Public Sale at a Minimum price, the Instructions* which he gave for carrying this Plan into effect were necessarily founded on data, the accuracy of which had not then been ascertained, nor could the means at that time have existed of fixing with any degree of precision the amount of the minimum price at which Lands ought to be put up for Sale in the Colony. In his Dispatch to you of the 10 July, 1831, Lord Ripon informed you that the Minimum price of 5s. an acre was intended for Land possessing no peculiar advantage, and that you were not to be deprived of the discretionary power of fixing a higher price on Land to which its situation might give a peculiar value. I should wish to be informed to what extent this discretionary power of raising the Minimum price has been exercised; and I have to request that you will, as early as possible, favor me with your opinion whether the price of 5s. an acre, named by Lord Ripon in 1831, might not now be advantageously raised throughout the Colony. From the rapid increase of Population and from the large amount of Sales annually taking place, I should infer that Land must have acquired a higher value in New South Wales than it possessed in 1831, and that 5s. an acre is an inadequate minimum price at which Land ought generally to be put up for sale in the Colony. On this subject, I wish to receive from you any information and suggestions, which your experience may enable you to offer. In the mean time, you will feel yourself fully authorised to fix a higher minimum price for ordinary Sales than 5s. an acre, should you concur with me in the view which I have expressed.

Previous instructions re minimum price of land.

Reports required re minimum prices.

Authority for increase of minimum price.

From the Returns of Lands sold in New South Wales which are contained in the Blue Books of your Government, I am led to infer that a deviation is permitted in many cases from that provision of the Royal Instructions, which limits the period for the payment of the whole of the purchase money of Lands to the period of one month from the date of the sale. As I attach great importance to a strict adherence to that Regulation, I have to desire that you will in no case suffer a departure from it.

Necessity for regulation re payment within one month from sale.

I am, &c.,

GLENELG.

* Note 187.

1837.
15 Feb.

[Enclosure No. 1.]

COLONEL TORRENS TO LORD GLENELG.

South Australian Colonial Office,

12th October, 1836.

My Lord,

Reports *re*
alleged
concessions for
settlement at
Port Phillip.

The Colonization Commissioners for South Australia request permission to state to Your Lordship that they have received a communication from Mr. Angus, Chairman of the South Australian Compy., to the effect that he has learned from unquestionable authority that a design is on foot for the purpose of inducing by the temptation of high pecuniary advantages the Shepherds and agricultural labourers, sent out to the Colony of South Australia by the money advanced by the purchasers of land in that Province, to migrate to the Settlements recently formed on that part of the Coast of New Holland, which lies East of South Australia and South of the located territory of New South Wales.

Necessity for
uniformity in
conditions for
settlement in
districts
adjacent to
South Australia.

In the first Annual Report,* the Colonization Commissioners earnestly besought Your Lordship's attention to the paramount importance, as respects the prosperity of the New Colony, of rendering the cardinal principle upon which it is founded uniform and permanent throughout all the adjacent districts of New Holland to which British Settlers may resort; and, at the personal interview sought by their Chairman on learning that Governor Bourke had been instructed to sell the lands in the neighbourhood of Port Phillip at a reduced minimum price, he ventured to express to Your Lordship the alarm which he felt, lest this measure should prove destructive to the Colony of South Australia.

The Communication received from Mr. Angus renders it the duty of the Commissioners to recur to this subject and to detail to your Lordship the grounds of their conviction that, if the public lands on the South East Coast of New Holland be not disposed of in such a way as to provide a supply of labour proportionate to that supplied to South Australia, serious injury and injustice will be inflicted not only on the purchasers of land in South Australia, but also upon the holders of South Australian Revenue Bonds.†

Conditions
prevalent on
settlement
of South
Australia.

When the lands of South Australia were offered for sale at 12s. per acre, hundreds of miles of unexplored forest intervened between the New Colony and the settled districts of New South Wales in which land could be obtained at a lower price; while the ample supply of convict labour obtainable in those districts diminished the demand for hired labor, and kept wages at a moderate elevation. Under these circumstances, there could be little to induce the free labourers sent out to the New Colony to migrate into the settled districts of New South Wales, and to associate their virtuous families with a convict population. But those favorable circumstances, under which the lands of South Australia found ready purchasers at 12s. per acre, exist no longer. The South East Coast of New Holland, adjoining the province of South Australia, has been opened to settlers, not only at the inadequate minimum price of 5s. per acre, but at any lower price which the Governor may choose to fix; while it does not appear, as far at least as the Commrs. have been able to ascertain, that any provision has been made for supplying those settlers with convict labour. The consequence of this change must be that, in the settlements upon the Coast adjoining South Australia, there will be an intense demand for free labor with a proportionably high rate of wages; and that

Alterations due
to settlements
at Port
Phillip, etc.

* Note 188.

† Note 189.

the desire on the part of the Emigrant Labourers sent out to South Australia to participate in those high wages will not be counteracted by the dread of convict association.

1837.
15 Feb.

The Commissioners are therefore apprehensive that, under these altered circumstances, it may be found impracticable to retain within the Colony that supply of labour, for the sake of securing which the lands were purchased at 12s. per acre.

Probable effect on supply of labour in South Australia.

Honoured as they have been by Your Lordship's confidence, and responsible as they are for carrying out the intention of the legislature to those with whom they have made contracts, many of whom have embarked all the little property they possess in the purchase and settlement of land in the Colony, the Commissioners feel that they would fail in the faithful discharge of their duty, did they not solicit the attention of Your Lordship to the disastrous effects, which the altered circumstances above detailed are calculated to produce upon the prosperity of the Province, with the Colonization of which they are charged.

Reasons for protest by commissioners.

In adjoining districts between which communication is easy, prices find a common level. On this obvious principle, it appears impossible that the system* prescribed by the legislature for the Colonization of South Australia, and the system recently applied to the South East Coast of New South Wales, should co-exist in the same vicinity.

If the lands on the South Coast of New Holland, adjoining the New Colony, be sold at 5s. per acre or less, land of a similar quality in the New Colony cannot be sold at 12s. per acre; and if the Emigration fund created by the sale of land throws into the New Colony a more abundant supply of labour than that which is given to Portland Bay, Western Port and Port Phillip, the Emigrant labourers sent out to the New Colony will be drawn off until, throughout the settled districts of the Southern Coast, the supply and the price of labour shall be equalized.

The Commissioners believe that such would be the inevitable results of keeping the South East coast of New Holland open to settlers even at 5s. per acre; and they submit that such results would be equivalent to a confiscation of the property, which has been embarked under the sanction of the Legislature in the establishment of the Colony of South Australia.

When the Legislature enacted that the lands of South Australia should be sold at not less than 12s. an acre, and that the proceeds of the sale should be employed without deduction in conveying labour to the Colony, and when His Majesty appointed a Commission to carry those enactments into effect, the faith of the Government became pledged not to nullify the provisions of the act of Parliament by extending to the vicinity of the New Colony regulations, having the effect of reducing the value of its land below 12s. per acre, and of depriving the purchasers of the supply of labour, the furnishing of which was the main condition of the sale.

When, in obedience to Your Lordship's instructions, the Commrs. communicated to the purchasers of the land the intention of His Majesty's Government to place the Emigration fund at the disposal of the Treasury a strong feeling of disappointment and dissatisfaction was excited; and the Commrs. apprehend that a feeling similar in kind but greatly aggravated in degree will be excited amongst the purchasers of South Australian land, and the holders of S. Australian Bonds, as soon as it becomes known to them that the South

* Note 109.

1837.
15 Feb.

Request for
uniformity in
conditions for
sale of land
and supply
of labour.

East coast has been opened to settlers at a price as much below 5s. per acre as Governor Bourke may think proper to determine.

Deeply impressed with the importance of the considerations now submitted, the Commissioners would request that, should their representations be found conformable to fact and to principle, your Lordship may be pleased to adopt such means, as to Your Lordship may seem most expedient, for establishing throughout the Southern Coast of New Holland that uniformity with respect to the price of land and to the supply of labour, which may be necessary to give effect to the system, which the Legislature has prescribed for the Colonization of South Australia; and that, in order to avert the danger which has been already created, a supply of labour, proportionate to that which has been furnished by its Emigration fund to South Australia, may be furnished to the settlements on the South East Coast, either by means of loans raised on the security of their unsold lands, or by such other means as in the judgment of Your Lordship may appear more expedient.

We have, &c.,

ROBERT TORRENS, Chairman.

[Enclosure No. 2.]

UNDER SECRETARY STEPHEN TO COLONISATION COMMISSIONERS.

Gentlemen,

Downing Street, 27th October, 1837.

Letter
acknowledged.

I am directed by Lord Glenelg to acknowledge the receipt of the letter of the 12 Inst., which by your desire your Chairman has addressed to his Lordship on the subject of the Settlements recently formed in that part of the Coast of New Holland, which lies east of South Australia and South of the located territory of New South Wales.

Lord Glenelg cannot contemplate, without the most lively concern, any event which justly appears to threaten the Colony of South Australia with disappointment or loss. But, on the part of H.M. Govt., his Lordship deems it right to disclaim all responsibility for the evils which your communication of the 12 Inst. predicts.

Policy for sale
of lands at
minimum
price.

For some years past His Majesty's Government have steadfastly enforced the rule, which forbids the alienation of wild lands in New Holland except by sales at public auction at a fixed minimum price. But they have always perceived that circumstances beyond their control would fix that minimum at a lower point than that which would be selected if the discretion of the Govt. in this matter were absolutely free and unfettered.

Reasons for
inability to
raise minimum
price.

In the remoter part of the vast regions comprised within the range of the Australian Colonies, the power of the law is unavoidably feeble when opposed by the predominant inclinations of any large Body of the people. In such a country, unpopular regulations, unless supported by a force either of police or soldiery irresistible and overwhelming must become little more than a dead letter.

Comparison
of "squatters"
with smugglers.

Thus in New South Wales the "Squatters"* (to employ the significant local term) find in the high upset price of land some of those advantages which a smuggler in other countries derives from a high rate of duty. Their proceedings, instead of being condemned and opposed, are countenanced and supported by the society to which they belong. Consequently an extensive territory at a distance from the seat of Government has been occupied by unauthorized Settlers of all classes, by the wealthy not less than by the

* Note 63.

poor; and, in this systematic violation of the law, each class finds support and encouragement in the example and common interest of its various members. With the most earnest desire to repress this growing evil, the local authorities have experienced the impossibility of making an effectual resistance to the general will.

1837.
15 Feb.

The case of Port Phillip is but an example and illustration of this prevailing triumph of popular feelings over positive law. In the commencement of the year 1835, a large Body of persons appeared in that vicinity and, having formed themselves into an organized association, took possession of considerable tracts of land under grants from the neighbouring chiefs. With this semblance of title, they readily attracted new settlers, and established a correspondence and agency with a wealthy society in this country from whom they made arrangements for obtaining pecuniary and other aids. So strong had become the desire of joining the new settlement, that it is described by Col. Arthur as a "Mania" affecting all classes in that Colony. Within a very short space of time, Port Phillip assumed the appearance of an established settlement with extensive and valuable flocks and herds.

Settlement of
Port Phillip
by private
enterprise.

Such has been the progress of this adventure that it seems not unreasonable to infer that, before any instructions from this country could arrive at the place, the population would have become so numerous as to render hopeless any attempt to dislodge them either by authority or by force.

When the intelligence of these proceedings reached Lord Glenelg from the respective Govrs. of N. S. Wales and Van Dieman's Land, his Lordship felt the indispensable necessity of adopting the earliest and most effective measures of arresting the progress of these unauthorized settlements. He was peculiarly anxious to interpose the authority of the law on that subject for the protection of the settlers in S. Australia against the consequences to be apprehended from the facility of obtaining Land gratuitously in a neighbouring settlement.

Policy adopted
re Port Phillip.

It would have been easy to publish at Port Phillip a regulation fixing the same upset price of 12s. which had been fixed in South Australia; but to have made such a rule would have been to insure the disappointing of every attempt to repress the growing evil. Port Phillip is part of the Colony of N. South Wales, and therefore fell naturally within the operation of the existing rule of that Colony, which had fixed the price at 5s. But even that price had afforded an irresistible temptation to the unauthorised occupation of the soil. If Sir R. Bourke had been instructed to consider that rule as applying peremptorily and inflexibly to the case of Port Phillip, he would have been destitute of any resource in the highly probable contingency of the general refusal of the new community to acquiesce in those terms. The Governor was therefore authorised to release it, if he should find such relaxation indispensable in order to arrest the evil of the unlicensed occupation of the newly explored territory, while he was to adhere to the spirit of the regulation which forbid the acquisition of any land in the Colony, the title to which rested on no legal basis. It by no means follows that the upset price to be fixed in the first instance is not hereafter to be increased. On the contrary there is every reason to believe that, as the settlement advances, land will acquire a much higher value and that the upset price will be consequently fixed at a proportionably higher rate.

Problems re
minimum
price of land at
Port Phillip.

1837.
15 Feb.

Inability to
coerce desire
for settlement
at Port Phillip.

If it be answered that the Governor should have been directed to coerce this lawless invasion of the lands of the Crown by force, it might be replied that there is not in the Australian Colonies any power, Civil or Military, available for such a service. The Troops and the police in N. S. Wales and V. D. Land are not more than adequate to the ordinary demands upon them. Further Lord Glenelg could not contemplate without insuperable repugnance the employment of hostile measures against the King's subjects for such a purpose.

Information
available prior
to embarkation
of capital in
South
Australia.

Assuming for the sake of argument the urgency as well as the reality of the danger, which you anticipate to South Australia from these occurrences, Lord Glenelg must assume also that it was a danger not concealed from the Colonists at the very outset of their enterprise. It cannot be imagined that any one has embarked his Capital in the S. Australian Colony in such ignorance of the state of affairs in that part of the world, as not to have prepared himself for the competition of unauthorized occupants of the soil on the surface of that vast continent. This indeed has always been the most obvious, the most powerful, and the most frequently urged of the arguments against the plan of colonizing at a very high upset price of land, immutably fixed by legislative authority. Whether that argument admits of a sufficient answer, Lord Glenelg does not stop to enquire. It is enough to state that the risk, such as it is, has been deliberately incurred by those who have embarked their property in this undertaking. It was matter of general notoriety that, in the Colonies immediately adjacent, the upset price was only 5s.; that, even on these terms comparatively so low, the inducements to occupy large portions of land without license had been found irresistible, and that, on the part of the Govt., the means of effectually preventing such occupation in all cases did not exist. The responsibility therefore rests on the Colonists themselves; It is clear that, even if your worst apprehensions were realised, the faith of the Govt. would in no degree be compromised, in as much as it is undeniable that, immediately on receiving intelligence of the proceedings at Port Philip, the Govt. adopted the only means which it was in their power to adopt or which in sound reason they could adopt with a view to arrest the further progress of the impending danger.

I have, &c.,
JAS. STEPHEN.

LORD GLENELG TO SIR RICHARD BOURKE.

(Despatch No. 266, per ship Mangles; acknowledged by
Sir Richard Bourke, 29th July, 1837.)

16 Feb.

Sir,

Downing Street, 16 February, 1837.

Despatch
acknowledged
re F. A. Hely.

I have received your Dispatch No. 67 of the 17th of June last, in which you bring under my notice the impaired state of health of Mr. F. A. Hely and the improbability of his being able to resume the discharge of his duties as Principal Superintendent of Convicts, and you therefore request authority to recommend Mr. Hely to the Legislative Council for a retiring Pension.

Impressed with the importance of the office which Mr. Hely holds, and the injury which would arise to the Public from the continuance in it of an officer whose energies appear to be so materially impaired by the disease under which he has been suffering, and considering his services and the very flattering testimony which you have borne to his merits, I have had much pleasure in recommending to the Lords Commissioners of the Treasury the adoption of your proposal that Mr. Hely should be allowed a Pension from the Colonial Revenue.

1837.
16 Feb.

Pension recommended for F. A. Hely.

I enclose for your information and guidance a copy of the answer from that Board, by which you will perceive that their Lordships have consented to Mr. Hely's being recommended to the Legislative Council for a pension not exceeding £186 per annum.

Proposed pension.

It would have afforded me much satisfaction to have been able to comply with your recommendation in favor of Mr. Ryan Brennan, but I regret that circumstances have prevented me from so doing.

Inability to appoint R. Brennan.

I have nominated Captain John Leyburn McLean to succeed Mr. Hely. This officer will shortly embark for the Colony, and I trust that he will be found peculiarly fitted for the Situation to which he has been appointed. He will be entitled to the same amount of Salary (£600) as was enjoyed by Mr. Hely, one half of which he will draw from the date of embarkation. The pension to Mr. Hely may as you propose commence from the 1st of January last.

Appointment of J. L. McLean.

I am, &c.,

GLENELG.

[Enclosure.]

MR. A. Y. SPEARMAN TO UNDER SECRETARY STEPHEN.

Sir, Treasury Chambers, 18 January, 1837.

The Lords Commissioners of His Majesty's Treasury having had under their consideration your letter of the 27th Ultimo transmitting extracts from a Dispatch of the Governor of New South Wales reporting the illness of Mr. Frederick Augustus Hely, Principal Superintendent of Convicts, and his consequent Incapacity to remain in the performance of the Duties of that office, and requesting permission to recommend Mr. Hely to the Colonial Council for a Pension, I am commanded by their Lordships to request you will inform Lord Glenelg that, upon reference to the Statement of Mr. Hely's Services and emoluments contained in the Despatch of Sir Richard Bourke, which statement the Council will doubtless cause to be verified by referring to the proper Records, My Lords will not object to the sanction of His Majesty's Government being accorded to the proposed application in Mr. Hely's favour, with the understanding however that the amount of the Pension does not exceed £186 per annum.

Approval of pension proposed for F. A. Hely.

I am, &c.,

A. Y. SPEARMAN.

1837.
18 Feb.

LORD GLENELG TO SIR RICHARD BOURKE.
(Despatch No. 269, per ship John Barry; acknowledged by
Sir Richard Bourke, 27th November, 1837.)

Sir, Downing Street, 18th Feby., 1837.

Inability of
D. Boyter to
accompany
emigrants.

I have the honour to transmit to you the enclosed extract from a letter from Doctor Boyter, R.N., reporting his inability, from indisposition, to accompany to New South Wales the Emigrants whom he was deputed by you to select in Scotland. Under these circumstances, it became necessary to appoint without delay another Surgeon for that purpose. I enclose you copies of a correspondence which has passed between one of my Under Secretaries and the Secretary to the Admiralty, together with a copy of the Instructions which I directed to be addressed to Mr. David Thomson, R.N., whom, on the recommendation of the Lords Commissioners of the Admiralty, I have appointed to the office of Surgeon Superintendent on board of the "John Barry."

Appointment of
D. Thomson.

I have therefore to request that you will take the necessary steps for issuing to Mr. Thomson on his arrival in New South Wales the amount of remuneration to be allowed him, as Specified in the copy of his instructions herewith forwarded to you.

I have, &c.,
GLENELG.

[Enclosure No. 1.]

EXTRACT of a Letter from Mr. David Boyter, M.D., Surgeon, R.N., to Sir Geo. Grey, Bart., dated Dundee, 26th Jany., 1837.

Inability of
D. Boyter to
take charge of
emigrants.

"As the time for embarkation is drawing near, I beg leave to express my regret at the probability of my not being able to accompany these Emigrants. For the last six years I have been constantly employed in the Public Service at Sea, and, from repeated attacks of a very dangerous complaint, I feel a dread of undertaking the responsibility and medical charge of so many Individuals, alone and unaided. I am therefore under the necessity of stating my intention to resign my appointment after the embarkation of these Emigrants. In the Instructions I received from the Governor, as also in the Letter addressed to Lord Glenelg, it was recommended that Surgeons in the Navy should be employed in this service, and that the time so employed should be allowed the same as serving in a Convict ship; and, as Vessels are now chartered by the Admiralty and supplied with Government Stores, the one service seems just as important as the other, and requires a Naval officer to take charge of these stores. I have, therefore, no doubt but a request from His Lordship to the Lords of the Admiralty on that head will obtain the service of Naval Surgeons, any time they may be required."

[Enclosure No. 2.]

UNDER SECRETARY STEPHEN TO SIR JOHN BARROW.

Sir, Downing Street, 4th Feby., 1837.

With reference to my Letter to you of the 29th of July last, requesting that the Lords Commissioners of the Admiralty would grant leave of absence to Mr. Boyter, R.N., who had been deputed

by the Governor of New South to select and convey from this Country to that Colony a certain number of Mechanics and their families in the ship "John Barry," which has been chartered by their Lordships for this service; I am now directed by Lord Glenelg to acquaint you, for the information of their Lordships, that Mr. Boyter has reported his inability from indisposition to accompany the Emigrants to the Colony, and that it will be necessary to appoint another Surgeon for this Service.

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Inability of D. Boyter to take charge of emigrants.

I am, therefore, desired by Lord Glenelg to request that their Lordships will be good enough to recommend to him, at their earliest convenience, a Naval Surgeon for this purpose. Considering the responsible nature of the duties which he will have to perform, it is essential that he should be an officer of experience and of approved character. He will be required to be at Dundee on the 1st of March next.

Request for nomination of naval surgeon.

As a remuneration for his services, he will receive full pay as a Surgeon in the Navy from the date of his appointment until the termination of his duty; and he will be allowed a free passage out and home, at the rate of £80 for the former and £100 for the latter.

Remuneration for services.

In the Instructions* which were furnished by the Governor of New South Wales to Mr. Boyter, that Officer was apprized that, if he discharged the whole of his duties to the satisfaction of the Local Government, he would be awarded a gratuity of £150.

Gratuity promised.

As the whole responsibility of the selection, as well as of the arrangements attendant on the embarkation of the Emigrants, devolves on Mr. Boyter, he may probably be considered as having a fair claim to a share of this gratuity; but the apportionment of it between him and the officer, who will have charge of the Emigrants during the Voyage, must be arranged by the Local Government on the arrival of the ship at Sydney.

I am, &c.,

JAS. STEPHEN.

[Enclosure No. 3.]

SIR JOHN BARROW TO UNDER SECRETARY STEPHEN.

Sir, Admiralty, 4th February, 1837.

With reference to your Letter of this day's date requesting that my Lords Commissioners of the Admiralty would recommend a Naval Surgeon to be appointed to the "John Barry" and to be employed in conveying certain Mechanics and their Families to New South Wales, I am commanded by their Lordships to recommend Mr. David Thompson for this appointment.

Nomination of D. Thomson as surgeon-superintendent.

I am, &c.,

JNO. BARROW.

[Enclosure No. 4.]

SIR GEORGE GREY TO MR. D. THOMSON.

Sir, Downing Street, 7th Feby., 1837.

I am directed by Lord Glenelg to acquaint you that, at the recommendation of the Lords Commissioners of the Admiralty, his Lordship has appointed you to the Office of Surgeon Superintendent of the "John Barry," which Vessel is appointed to sail with Free Emigrants from Dundee to New South Wales on the 1st of March next.

Instructions to D. Thomson.

The Emigrants in question have been selected by Mr. Boyter, R.N., under Instructions addressed to him by Sir Richd. Bourke, the Governor of New South Wales, an Extract of which is enclosed for

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18 Feb.

Instructions
to D. Thomson.

your information. You will perceive by those Instructions that it was intended that Mr. Boyter should accompany the Emigrants on their voyage to the Colony; but he has reported the state of his health to be such as to incapacitate him for this service. He will, however, be wholly responsible for the selection of the Emigrants, and he will also be required to superintend their embarkation; on the completion of which, he will resign his charge into your hands together with the Documents referred to in his Instructions, in order that they may be produced to the Governor on your arrival in the Colony.

You will receive remuneration for your services at the same rate at which Mr. Boyter would have received it, had he accompanied the Emigrants to Sydney, vizt., full pay from the commencement until the termination of your duties, with a Passage out and home at the rate of £80 for the former and £100 for the latter.

With respect to the Gratuity of £150 promised to Mr. Boyter if the Local Government should consider that he had satisfactorily performed the important duty entrusted to him, I am to observe that, although he has been compelled to abandon the intention of proceeding in the "John Barry" to New South Wales, he may still be considered as entitled to a portion of the gratuity, if the Emigrants shall appear to have been properly selected.

But the payment of the gratuity, and its apportionment between that Officer and yourself, must be arranged by the Local Government after your arrival in the Colony, and will of course depend on the opinion which may be entertained of the mode in which the respective duties shall have been performed.

I am, &c.,
GEO. GREY.

SIR RICHARD BOURKE TO LORD GLENELG.
(Despatch No. 13, per ship Douglas.)

My Lord, Government House, 18 February, 1837.

With reference to former Despatches in which I have recommended the employment in obtaining Emigrants for this Colony of Naval Surgeons accustomed to the charge of Convict Ships, I have the honor to state that John Smith, Esq., R.N., has been furnished with Instructions for selecting and bringing out Emigrants from Aberdeenshire and the adjoining Counties of Scotland, which he has been desired on his arrival in London to lay before Your Lordship for approval and final orders.

I have, &c.,
RICHD. BOURKE.

SIR RICHARD BOURKE TO LORD GLENELG.
(Despatch No. 15, per ship Douglas.)

My Lord, Government House, 18 February, 1837.

Dr. Lawrence, a Surgeon in the Navy who takes this Despatch, was intended by me for employment as an agent for collecting Emigrants from this Colony, and would have received

Appointment
of J. Smith
to procure
emigrants.

Intended
appointment
of Lawrence.

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the usual Instructions for submission to Your Lordship, had he not hesitated to engage absolutely in the undertaking from an apprehension that he might find on reaching England some impediment arising from his Naval appointment or private affairs.

Under these circumstances, I have consented to give Dr. Lawrence this Letter in order to express the favorable opinion which I entertain of his fitness for the employment in question, and I have the honor to recommend his being engaged accordingly in case he shall find himself at liberty to undertake the duty.

Recommendation for employment.

I have, &c.,

RICHD. BOURKE.

SIR RICHARD BOURKE TO LORD GLENELG.

(Despatch No. 17, per ship Douglas.)

My Lord, Government House, 18 February, 1837.

Not having received any intimation of the acquiescence of the Lords of the Admiralty in the proposal, which I submitted in a Despatch to Your Lordship dated 14 Octr., 1835, No. 102, for allowing the Surgeons of the Navy, who may be employed in superintendg. Emigration to this Colony, to compute the time thus occupied as a part of their Naval Service, I have the honor to represent that, if this advantage be withheld, it will be impossible to induce a sufficient number of competent Naval Surgeons to undertake the duty unless they be compensated for their loss of time by additional remuneration. I would therefore submit that they be allowed to receive in all cases, without reference to Naval Rank or standing, full Surgeon's pay of 18s. a day and that £50 be added to the gratuity receivable on the satisfactory completion of each Engagement.

Delay in approval of conditions for employment of naval surgeons.

Proposed pay and gratuity.

I have found it necessary to offer these allowances to the Surgeons recently engaged here; and I trust that, if the Admiralty refuse them the indulgence above alluded to, H.M.'s Government will sanction this augmentation of pay and gratuity to these officers and to those previously engaged, and as a general rule for the future.

I have, &c.,

RICHD. BOURKE.

SIR RICHARD BOURKE TO LORD GLENELG.

(Despatch No. 18, per ship Duchess of Northumberland.)

My Lord, Government House, 19 February, 1837.

19 Feb.

In former Despatches,* I acquainted Your Lordship with the delay on the part of the Surveyor General in furnishing the Journal and Map of his first Expedition to trace the River Darling. I am now enabled to forward that Journal, together

Delay in submission of journal by T. L. Mitchell.

* Note 191.

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19 Feb.

Transmission
of journals
and map.

Departure of
Sir R. Bourke
for Port Phillip.

Transmission
of journals
without
comment.

Despatch
acknowledged.

Duties for
department
of surveyor-
general.

Transfer of
control of
roads and
bridges.

Necessity for
separate
establishment
for colonial
architect.

with the Journal of the last Expedition* principally directed to the same object, and a Map shewing the track of the Party on both, and the connexion of the Country then traversed with the more known parts of the Colony.

These Papers were yesterday placed in my hands for the first time. Tomorrow I propose to embark in H.M.S. Rattlesnake to proceed to Port Phillip, where my presence is much required. It is not possible previously to peruse with care manuscripts of such bulk as Your Lordship will find these to be. I must therefore either forward them unread, and consequently without comment, or delay their transmission until I return from the New Settlement. The latter course I am unwilling to take, as Major Mitchell has expressed an earnest wish to be himself the bearer of these Journals to Your Lordship, a favor which I am quite disposed to grant, and of which he is enabled to profit by having obtained leave of absence from the Colony for 18 months to visit England. I therefore forward the Journals, Map, and this Despatch to be presented to Your Lordship by Major Mitchell.

I will beg leave to take this opportunity of replying to that part of your Lordship's Despatch of the 21st September last, No. 213, which relates to the constitution of the Surveyor General's Department. After more than five years' experience of the proceedings of this Department, I am strongly of opinion that it will be advantageous to confine its duties to the General Survey of the Colony, the measurement of grants and all matters connected with these operations, including the charge of the Depot of Maps and Plans and the office of reference in Sydney, and to the marking out lines of Road through the located, or, when necessary to connect distant points, the unlocated country. In my Despatch of the 29th December last, No. 139, I stated at length to your Lordship the reasons which induced me to transfer the construction and repair of Roads and Bridges to the Royal Engineers. Having since communicated with Major Mitchell on the subject, I have the honor to transmit a copy of the correspondence. Your Lordship will perceive that Major Mitchell approves of the arrangement.

The increased duties of the Colonial Architect have for some time required a separate Office and Establishment for their efficient discharge, the control of the Surveyor General over this branch of the public service having been at no time more than nominal. The obvious necessity for adding largely to the public Buildings and the expediency of effecting this useful object, whilst the Colonial Treasury affords the means, rendered a separate Establishment under a skilful Architect indispensable. Nor has the appointment of an Engineer Officer of Experience

* Note 79.

removed the necessity, as from their number and extent the public Buildings now in hand require a superintendence, which the R. Engineer Department at its present strength cannot possibly exert. It is to be observed also that, by means of expected immigrant artisans, it is probable additional works may be speedily undertaken.

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19 Feb.

I have, &c.,

RICHD. BOURKE.

[Enclosure No. 1.]

COLONIAL SECRETARY MACLEAY TO SURVEYOR-GENERAL MITCHELL.
Colonial Secretary's Office,

Sydney, 29th December, 1836.

Sir,

I have the honor by the direction of the Governor to inform you that, as the charge of making and repairing Roads and Bridges in New South Wales will be transferred on the 1st proximo (as already intimated to you) to the Royal Engineer, His Excellency is desirous of expressing the sense He entertains of the services you have rendered to the Colony by marking out several good lines of new Road, and by improving and reforming other lines, both in Town and Country, which has been injudiciously planned in the early days of settlement, or adopted without any Plan whatever. In these arrangements, you have not only shewn a large share of skill and judgment, but entered upon them with an earnestness and zeal, which deserve the best thanks of this Government; and, in the tracing of new lines therefore, His Excellency proposes that the Public shall still obtain the benefit of your tact and ability, although it has been thought advantageous to transfer the making and repairs of Roads to other hands.

Commendation
of services of
T. L. Mitchell
in control of
roads.

Proposed
employment on
new roads.

The motives for this change may be briefly stated as follows:— It had been shewn by long experience that the efforts of your department, whether divided into a Road Branch under a separate head, or acting under your immediate directions, had not been successful in controlling the numerous and dispersed parties of dissolute Convicts employed on the Roads or in obtaining from them a fair portion of labour. Some attempts were made, in the latter end of 1832, to improve the organization both of the Ironed Gangs (then but two in number) and of the numerous Road Parties working out of Irons. The former have been, by the attention of the Military Officers appointed to superintend them, brought into a very efficient state both as to discipline and work. The change in the Colonial Law* introduced about the same time, by which the improvident transportation of laboring Criminals to Norfolk Island and Moreton Bay was much diminished, and a sentence to labour in Irons on the roads within the Colony substituted, has had the effect of augmenting the number of these Gangs, whilst improvement in their organization have kept pace with their increasing strength. The same success has not attended attempts to make the Road Parties efficient. Their organization has been necessarily different, and they have continued to be the subject of constant though perhaps of exaggerated complaint. Their total reduction had been for some time contemplated by His Excellency, but, until the change in the Law above referred to had recruited the Ironed Gangs, He could not venture upon a measure which would have left the Public Works too bare of Men. It was recommended last year by a Committee of the Council and can now be carried into effect, and He hopes without any considerable inconvenience.

Reasons for
transfer of
control of
roads to royal
engineer.

* Note 192.

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19 Feb.

Reasons for
transfer of
control of
roads to royal
engineer.

There remaining then on the roads for employment those Gangs only, which in regard to discipline have been for some time wholly under the charge of Military Officers, it has been deemed expedient to give to the Military also the care of superintending the work under the orders of the Commanding Royal Engineer. By this arrangement, the unity of direction (the want of which was beginning to be felt) is introduced into the service; and the care of the animals to be maintained and Tools employed on the Roads, being withdrawn from unskilful or dishonest Civil Overseers, will be placed under more efficient and trusty management, whilst a considerable saving to the Public in the expence of superintendance will be effected.

The Governor likewise intends that the few Bridge Parties to be kept up shall also be placed under the Commanding Royal Engineer.

His Excellency has thought it due to you, whose ability in laying out Roads (a talent of no mean value to any State) will long be memorable in this Colony, to afford you an official explanation of the motives and circumstances which have led to the transfer now about to take place.

I have, &c.,

ALEXANDER MCLEAY.

[Enclosure No. 2.]

SURVEYOR-GENERAL MITCHELL TO COLONIAL SECRETARY.

Sir, Surveyor General's Office, 3rd January, 1837.

Letter
acknowledged.

I have had the honor to receive this day your letter, dated 29th December last, in which, by the direction of the Governor, you express to me, with reference to the transfer of the road department to the Royal Engineer, the high sense His Excellency entertains of my services in that branch of the duties assigned to me, at the same time that you favor me with an explanation of the circumstances under which the different arrangement has been made. In reply, I beg to observe that, as in these labours it has ever been my ambition to deserve the approbation of the Government, the expression of His Excellency's sentiments in these gratifying terms not only enables me to look back on my past exertions with additional satisfaction, but would have a powerful effect in stimulating me to similar efforts, whenever my services might be required in future.

Approval of
transfer
of control of
roads.

With respect to the transfer of the charge and superintendence of the work to the Royal Engineers and the Military, I take leave to observe that what with the highly improved state of the Iron Gangs, accomplished by His Excellency (by means of Military superintendence and discipline), the unity of direction now about to be introduced also and above all the skill and experience of the Commanding Royal Engineer, I feel assured that forced labour may be employed in the construction of the Roads and Bridges of the Colony with much more advantage than it has been hitherto.

To accomplish these objects, I have long been sensible that my Department has not afforded the adequate means. And I now therefore have to return my thanks to His Excellency the Governor for relieving it from the duties connected with the superintendence of the Roads.

I have, &c.,

T. L. MITCHELL, Surveyor General.

[Additional enclosures.]

[Copies of the journals of exploration will be found in a volume in series F.]

LORD GLENELG TO SIR RICHARD BOURKE.
(A circular despatch per ship Mangles.)

1837.
20 Feb.

Sir, Downing Street, 20 February, 1837.

I have the honor to transmit to you for your information a copy of a Letter from the Under Secretary of State for the Foreign Department, notifying that His Majesty has been graciously pleased to appoint George Pritchard, Esq., a Resident of Tahiti, to be His Majesty's Consul for the Society and Friendly Islands.

Appointment of consul for Society and Friendly islands.

I am, &c.,

GLENELG.

[Enclosure.]

[A copy of this letter is not available.]

LORD GLENELG TO SIR RICHARD BOURKE.
(Despatch marked "Separate," per Mr. Hetherington.)

Sir, Downing Street, 22d February, 1837.

22 Feb.

I have the honor to acquaint you that the Revd. Irvine Hetherington having been recommended to me by the Committee of the General Assembly of the Church of Scotland on Colonial Churches, and having also produced the most satisfactory testimonials as to his fitness to fill the office of Minister in the Presbyterian Church at New South Wales, I have felt no hesitation in sanctioning the appointment. Mr. Hetherington will present this Letter to you, and I trust that he will prove well calculated for the performance of the duties which he is about to undertake.

Appointment of Revd. I. Hetherington as chaplain.

I am, &c.,

GLENELG.

LORD GLENELG TO SIR RICHARD BOURKE.
(Despatch No. 267, per ship Mangles.)

Sir, Downing Street, 27th February, 1837.

27 Feb.

I have the honor to acknowledge the receipt of your Dispatch of the 8th August last, No. 86, with its several enclosures relative to the measures which have been adopted for the establishment of a system of national education in the Colony of New South Wales. This Dispatch, though dated more than 6 months ago, was only received here on the 20th Instant; and I lose no time in addressing you on the important subject to which it refers.

Despatch acknowledged re education.

It is with great regret that I have learned that the proposal to establish schools on the principle recommended by you and sanctioned by His Majesty's Government should have been met by the opposition, to which you have adverted, on the part of a large

Regret at opposition to national schools.

1837.
27 Feb.

number of Clergymen and Gentlemen in the Colony acting under the sanction of the Bishop of Australia. With respect to the part taken by the Bishop, I feel it but due to him to transmit to you the enclosed copy of correspondence which took place between his Lordship and myself previously to his final acceptance of the see of Australia.

Criticism
of opposition.

For the conscientious objections which may have been entertained to the principle on which the proposed schools were to be established, I cannot but entertain sincere respect; but I must at the same time avow my conviction that the plan in question has not been fairly dealt with by its opponents, and that, as to many, and those among the gravest of the charges by which it has been assailed, it is not open to just accusation. I am not indeed disposed to criticise with severity expressions used under an apparent misapprehension of the future provisions of the system, which you were about to submit to the consideration of the council. I had hoped however that, while I felt it my duty to sanction and encourage the establishment of schools to which all denominations of Christians in the Colony would without any compromise of their respective sentiments have free access, The recommendation, contained in my Dispatch of the 30 Novr., 1835, and which I am happy to find has been acted on, of extending pecuniary aid on certain conditions to the schools of separate denominations would not have been altogether overlooked by those for whose benefit and in deference to whose opinions it was suggested.

Approval
of policy of
Sir R. Bourke.

I am happy to find that the measures which you adopted for imparting to the public in the Colony correct views of the intentions of Government as to the proposed system tended to allay much of the excitement occasioned by the proceedings to which you have called my attention; and I cannot but anticipate that, when the system in all its parts shall become generally known, a tone of greater moderation will be assumed even by those who may still feel themselves bound to withhold their assent from its provisions. I approve of the cautious and gradual mode in which you have commenced what must as yet be considered only as an experiment and one in the result of which the Government can have no interest whatever apart from the welfare and the deliberate wishes of the great body of the colonists. To a continuance indeed in a colony such as New South Wales of exclusive support to the members of one church, whether for the maintenance of religious worship or for education, I conceive that the strongest objections exist; and I have not the slightest reason to doubt the accuracy of the opinion, which you have on a former occasion expressed, as to the desire on the part of the

Objections to
support of one
church only.

Colonists for a more liberal and comprehensive system of appropriation of the public funds devoted to these purposes.

1837.
27 Feb.

In acceding, however, to this desire on their part, His Majesty's Government can have no wish to impose on them any system which is opposed to the general wishes of the Inhabitants; and you will not fail to let it be distinctly understood that, while it is the object of His Majesty's Government that no class or denomination of Christians in New South Wales should be excluded from the benefit of a public provision for education, any liberal and comprehensive system of general instruction, which may meet with the approbation of the great majority of the Colonists, will be cordially sanctioned by His Majesty's Government. The whole tenor of my former Dispatch to you on this subject renders it scarcely necessary for me to repeat this intimation, nor should I have felt it incumbent on me to do so, had not the recent proceedings in New South Wales proved the necessity of avoiding the possibility of any misconception of the views of Government on a question of such vital importance to the interests of the Colony.

General policy to be adopted re education.

I approve of the intended instruction to the Board of Education that a chapter of the authorised version of the New Testament should be read on the first school morning of every week to the Protestant scholars in attendance. I am not however aware of any sufficient reason for the limitation of this practice to one morning in the week. I would, therefore, suggest for your consideration whether it might not be usefully extended to other school days.

Approval of reading of Bible in schools.

Experience may possibly enable you to recommend such further regulations as without sacrificing the essential principle of comprehensiveness in the conduct of the schools may tend to remove the objections which have been anticipated to their practical operation. I will only add that I should deeply regret that an attempt to diffuse among the rapidly increasing population of New South Wales the blessings of education on a scale commensurate with the growing wants of the Colony should become the source of discord and division among those, who ought to be united in the bonds of Christian Charity. Such a result would have a powerful tendency to defeat the great object, which you in common with His Majesty's Government have in view; and I have that entire confidence in the soundness of your judgement that it is scarcely necessary for me to impress on you the importance in the prosecution of this object of leaving no proper means untried of promoting harmony and conciliation among all classes of the community, and of treating with forbearance and

Regret at discord caused by problems of education.

1837.
27 Feb.

consideration the opposition and even the prejudices of those whom further experience and observation may render more disposed to co-operate with you in your plans for the advancement of the best interests of the Colony. I am, &c.,

GLENELG.

Non-receipt
of report *re*
support for
religions.

P.S.—I beg to inform you that I have not yet received any official communication from you as to the measures which you have adopted for carrying into effect that part of the arrangement, sanctioned in my Dispatch of 30th November, 1835, which related to the erection of churches and maintenance of ministers.

[Enclosure No. 1.]

LORD GLENELG TO ARCHDEACON BROUGHTON.

Sir,

Downing Street, 1st December, 1835.

It is the anxious wish of His Majesty's Government to proceed without further delay to the final settlement of the Ecclesiastical and Scholastic arrangements of the Australian Colonies, which have been, for some time, under their consideration.

On receiving the seals of this Department, I found that upon the general question of the future provisions for Religious Instruction and Education in New South Wales, which had been brought under the notice of my Predecessor by Sir Richard Bourke and by yourself, no decision had been adopted. On one point, however, connected with the general subject, the case was different. Sir R. Bourke had strongly recommended, with a view to the interests and discipline of the Church of England in the Australian Colonies, that New South Wales and its dependencies should be erected into an Episcopal See, and that the Archdeaconry should be merged into this new and higher Institution. I found that my Predecessor Lord Aberdeen, with the concurrence of the Archbishop of Canterbury, had assented to the recommendation and had decided on submitting your name to the King for appointment to the new See. His Majesty's present Government at once admitted the expediency of the intended change, and were prepared without delay to carry it into effect. I regret that difficulties occurred to you, which have hitherto induced you to hesitate as to your acceptance of the office. This has been the sole cause of my deferring the adoption of the legal measures necessary to the completion of this arrangement. I am aware that this hesitation on your part proceeded from an anxiety to be informed of the intentions of His Majesty's Government, with reference to the general subject of education; but I feel it right to state to you that the determination of the Government with respect to the Bishopric has never been considered by them as in any degree contingent on the other question, and that, irrespective of their decision as to the latter, they are convinced that it is necessary that no further delay should take place in acting upon the decision long since adopted as to the former.

Proposal by
Sir R. Bourke
for erection
of bishopric.

Hesitation by
Revd. W. G.
Broughton
to accept
nomination
as bishop.

Request for
early decision.

I therefore earnestly trust that you will permit me to submit your name to The King as the first Bishop of New South Wales: and I have to request that you will favour me with the earliest possible intimation of your decision as to the proposal, which I have the honour to convey to you.

I am at the same time anxious to communicate to you full information of the course which, after mature consideration, His Majesty's Government have determined to adopt on the general question; and, in order to obviate any possible misconception, I enclose for your perusal copies of a Dispatch* from Sir Richard Bourke upon this subject to my predecessor Lord Stanley, and of the answer* which I have addressed to Sir Richard Bourke. I am fully sensible of the deep interest which you feel in the spiritual welfare of the Australian Colonies, and I place a high value on the experience which you have acquired during your past residence in New South Wales, and on the proofs which you have given of your enlightened zeal in the furtherance of the best interests of the Colonists.

1837.
27 Feb.

Transmission of despatches re problems of religion and education.

It will therefore afford me high gratification to know that His Majesty's Government may depend upon your concurrence and co-operation in the views, which they entertain upon this important subject; but, deeply as I should regret the loss of such cooperation, I feel it my duty to state without reserve that the course taken by His Majesty's Government has been adopted under a full sense of their responsibility and on the deliberate conviction that it is recommended by principles the best calculated to advance those interests which, in common with yourself, they are most anxious by all due means to foster and promote.

Final decision on problems.

I am, &c.,
GLENELG.

P.S.—I beg to request that you will have the goodness to return the enclosures to this dispatch after having perused them.

[Enclosure No. 2.]

ARCHDEACON BROUGHTON TO LORD GLENELG.

My Lord.

Canterbury, 3rd December, 1835.

I had this morning the honor of receiving your Lordship's letter dated the 1st Instant, expressing the anxious desire of His Majesty's Government to proceed without further delay to the final settlement of the Ecclesiastical and Scholastic arrangements of the Australian Colonies.

Letter acknowledged.

In extenuation of any share of that delay which may have been occasioned by my hesitation to accept the high and sacred office which was proposed to me by the Earl of Aberdeen, and the offer of which is now repeated by Your Lordship, I would with much submission observe that the question was of far more difficult decision than if it had now been proposed to me to visit those Colonies for the first time. I had been already known there in the twofold capacity of the Head of the Church and Visitor of the Public Schools. Religion and Education had been placed under my charge in the closest association; and I therefore felt a natural unwillingness to contract new engagements without knowing whether my former relation to the Government was to continue, or whether, by breaking off my connexion with the Schools, it was materially to change its character.

Reasons for delay in accepting nomination as bishop.

I am, therefore, most deeply indebted to your Lordship's condescension in having afforded me the opportunity of perusing the Dispatch of Sir Richard Bourke, and of the proposed reply from your Lordship to his Excellency, whereby I am enabled to take a deliberate view of my situation before I devote myself to it beyond the power of recall.

Thanks for perusal of despatches.

* Note 193.

1837.
27 Feb.

Acceptance of
nomination as
bishop.

Your Lordship having been pleased to apprise me that the determination of the Government with respect to the Bishoprick has never been considered by them as in any degree contingent on the general question, I should have felt myself debarred from expressing more than my simple acceptance of the distinguished office proposed to me, with an assurance of my gratitude to your Lordship for having been pleased to confirm me in that appointment, and for the flattering terms in which such promotion is conveyed.

But, as your Lordship has testified a hope that the Government may depend upon my concurrence and cooperation in the views which they entertain upon the important subject referred to in the preceding part of your Lordship's letter, I apprehend that my passing over this without some explanatory remarks might be construed as pledging me to the extent of that expectation. The dispatch of General Bourke has however laid open to me some points in which I cannot concur; and I therefore request your Lordship's permission to state briefly, with respect to these, the grounds of my inability to promise the required co-operation.

Inability to
concur in
opinions of
Sir R. Bourke.

Objections to
general support
for all
religions;

I should be unable to make any engagement which would imply my acting in concert with Sir Richard Bourke in carrying into effect the proposed system of giving public support to three separate forms of Religion, and possibly also to every congregation of Dissenters and of Jews upon the same principle; because my opinion of the tendency of this system is precisely in accordance with the expectation of His Excellency that, under it, "the people will become more attached to their respective Churches, and be more willing to listen to, and obey their several pastors." I could not engage to concur in a system, which, instead of enlightening the minds of men and disposing them to adopt the truth, will attach them more to the errors of their Church, and check the progress of the Reformation; since I must, as a Protestant Bishop, contract obligations, which will bind me to employ all diligence and exertion to counteract such a purpose.

and to new
system of
education.

With respect to the new system of education, it is unnecessary that I should again trouble your Lordship with a statement of the reasons, which lead me to decline connecting myself with it, and which would induce me to counsel all Protestants to pursue the same course. I should most gratefully avail myself of the opening afforded by Your Lordship's proposal to afford assistance to persons and classes of persons, who may entertain objections to the general plan; and I should hope to prevail with the Legislative Council to render such assistance to an extent, which may enable me to retain the Furniture and Buildings of the existing primary Schools and to carry them on upon the present system.

Inability to
promise full
co-operation.

I am therefore but too apprehensive that, without extended indulgence for cases in which I might consider myself bound by principle to withhold my support from the measures of Government, I should not subscribe to your Lordship's words according to the plain and obvious meaning in which they must be understood by an honest mind. I venture to express not only my readiness but my anxiety, I may, in a justifiable sense, say my ambition to enter upon the episcopal office in New South Wales; my connection with the country, my regard for many of the inhabitants, and my anxiety to promote the welfare of the Christian Church, all conspiring to fix my determination; and I cannot contemplate but with extreme pain any circumstance which may interfere with my attainment

Desire for
appointment
as bishop.

of that distinction. Nevertheless, I cannot be blind to the inconvenience which may arise from the want of a better accordance between the Governor of the Colony and myself; above all things I would wish to avoid misleading the Government as to the principles which I entertain, and so raising expectations of concurrence and co-operation which my subsequent proceedings might not satisfy. I have no resource, therefore, but to throw myself upon your Lordship's favourable consideration, and to request that the expression, which raises this difficulty, may be so interpreted as to leave me no more discretion than its literal sense appears to imply.

1837.
27 Feb.

Conditions for
acceptance of
nomination.

I have, &c.,

WILLIAM GRANT BROUGHTON.

[Enclosure No. 3.]

LORD GLENELG TO ARCHDEACON BROUGHTON.

Sir,

Downing Street, 7th December, 1835.

I have received your letter of the 3rd Instant, and I trust that I may infer from it that you are will to accept the proposed appointment of Bishop of New South Wales and its dependencies. His Majesty's Government have never hesitated as to the selection of the individual to fill this high and important office; and I have frequently expressed to you my earnest desire that you might signify to me your acceptance of it, irrespective of the course which the Government should ultimately determine to adopt with respect to Religious Instruction and Education in the Colony. In intimating to you my hope that His Majesty's Government might receive your concurrence and cooperation in the plan of education recommended by Sir Richard Bourke, it was not my intention to impose any condition upon your acceptance of the Bishopric, or to fetter the free exercise of your judgment in the course which you may feel it incumbent upon you to pursue, either in your Episcopal or Legislative capacity. I am persuaded that, in the discharge of the duties attached to your sacred office, you will be actuated by motives of the highest nature and by a single desire to promote the best interests of the Colony.

Unconditional
offer of
appointment
as bishop.

It appears to me that, as the limits of the Bishopric will be more extensive than New South Wales, Australia will be a more appropriate designation of the proposed See.

Australia
proposed as
name for see.

Altho' the question is one of little importance, I shall be happy to receive any suggestion from you upon this point, before I give directions for the preparation of the necessary Patent.

I am, &c.,

GLENELG.

LORD GLENELG TO SIR RICHARD BOURKE.

(Despatch No. 268, per ship John Barry.)

Sir,

Downing Street, 27th Feby., 1837.

I have the honour to transmit to you, by Mr. Thomson the Surgeon Superintendent of that Ship, a copy of the charter party which has been made by the Lords Commissioners of the Admiralty for the hire of the Ship "John Barry" of 524 Tons

Transmission
of charter party
of ship John
Barry.

1837.
27 Feb.

register, engaged for the conveyance of the Emigrants who may be selected by Mr. Boytor, R.N., from Dundee to New South Wales in the course of the next month.

Stores for use
of emigrants.

I also transmit to you a list of certain stores, etca., which have been put on board for the use of the Emigrants during the voyage, in order that they may be accounted for on Her arrival in the Colony.

Payment
for freight.

You will perceive from the nature of the contract in question that one half of the freight is to be paid on the departure of the ship from Dundee by a Bill drawn at Sight on the Colonial agent, and the remainder either in specie or treasury Bills (at your own option) on the arrival of the ship in the Colony. I have therefore directed that instructions be transmitted to Mr. Ed. Barnard to honour such Bill, on its being accompanied by a Certificate from the Comptroller of Victualling and transport services of the "John Barry" having finally sailed from Dundee on her intended voyage.

As soon as the Lords Commissioners of the Admiralty shall have furnished me with the cost of the Stores, provisions, etca., which may be put on board the "John Barry," the Colonial Agent will be directed to repay the amount to their Lordships.

I have, &c.,
GLENELG.

[Enclosure No. 1.]

[A copy of the charter party is not available.]

[Enclosure No. 2.]

List of stores
for use of
emigrants.

A LIST of Stores shipped on board the "John Barry" chartered for the conveyance of Emigrants to New South Wales.

Admiralty, 9th Feby., 1837.

Tea Kettles to serve as Teapots	56	No.
Sea Boilers 6 Quarts	6	"
Ditto 4 "	6	"
Ditto 1 "	6	"
Saucepans 1 "	2	"
Ditto 1 Pint	2	"
Wood cradles	2	"
Night Chair	7	"
Close Stool Pans	8	"
Bed Pans	2	"
Urinals	2	"
Spitting Pots	2	"
Bath	1	"
Scrubbing Brushes	30	"
Kits	56	"
Bedding	334	Sets.
Water Pails, large	6	No.
Ditto small	6	"
Washing Tubs	11	"
Clothes Lines	300	Fathoms.
Drinking Mugs	334	No.
Kegs (three Gallon)	56	"
Do. small for Vinegar	16	"
Harness Casks with Padlocks	3	"

JOHN ROBSON, Master.

LORD GLENELG TO SIR RICHARD BOURKE.
(Despatch No. 270, per ship Mangles.)

1837.
4 March.

Sir, Downing Street, 4th March, 1837.

In connection with the subject of the Ecclesiastical Establishment in the Colony under your Government, I am desirous of calling your attention to the expediency of making provision in the Estimates for the allowances for the passage of Clergymen proceeding from this country to the Colony.

Necessity for provision for passages of clergy.

Hitherto the sum of £150 has been allowed in all cases; but, as the number of Clergymen on whose behalf such an allowance will be claimed is likely to be considerably encreased, I think it desirable that the Council should make provision for this expenditure according to the probable number of Clergymen who may annually be expected to arrive in the Colony. It will not, I think, be unreasonable under present circumstances to adopt some modification of the existing rule.

The sum of £150 was fixed with reference to Protestant Clergymen who are for the most part married, while of course all Roman Catholic Clergymen have only their own passage to provide for. It might be considered an equitable arrangement if £100 were allowed to single men, and £150 to those who were married. Some provision may also be required for the passage of Schoolmasters, who cannot be expected to undertake so long and expensive a voyage without pecuniary assistance.

Proposed allowances for passage money.

I have, &c.,
GLENELG.

LORD GLENELG TO SIR RICHARD BOURKE.
(Despatch No. 272, per ship Mangles.)

Sir, Downing Street, 8 March, 1837.

8 March.

I have the honor to transmit to you a copy of a letter from the Secretary to the Admiralty, notifying the appointment of Mr. Thos. Laslett to be a Second Purveyor of Timber at New Zealand, and requesting that you may be authorised to afford him any assistance which he may require in the performance of his duty; and I have to request that you will give effect to the wishes of the Lords Commissioners of the Admiralty on this subject.

Appointment of T. Laslett as second purveyor of timber in New Zealand.

I am, &c.,
GLENELG.

[Enclosure.]

SIR JOHN BARROW TO UNDER SECRETARY STEPHEN.

Sir, Admiralty, 3rd March, 1837.

I am commanded by the Lords Commissioners of the Admiralty to request you will state to Lord Glenelg that their Lordships, having appointed Mr. Thomas Laslett to be a second Purveyor

1837.
8 March.
Appointment
of T. Laslett
as second
purveyor of
timber in
New Zealand.

of Timber at New Zealand, have ordered him to proceed to Sydney in the first instance, and to put himself under the direction of the Colonial Government for the purpose of joining the "Buffalo." the ship dispatched to New Zealand on this service; and he is charged with various presents for the Natives, which he is to land at Sydney until he has an opportunity of joining the "Buffalo" on her arrival there.

My Lords command me therefore to request you will move Lord Glenelg to give corresponding Instructions to the Colonial Government in order that Mr. Laslett may have every assistance in carrying their Lordships' wishes into effect, and also that, in the event of his requiring an advance of his pay (which is fixed at 13s. a day), a reasonable sum may be allowed him by the Colonial Department to be charged against the Admiralty.

I have, &c..

JOHN BARROW.

LORD GLENELG TO SIR RICHARD BOURKE.

(Despatch No. 273, per ship Mangles; acknowledged by Sir Richard Bourke, 1st September, 1837.)

9 March.
Appointment
of Revd.
J. Allan as
chaplain.

Sir,

Downing Street, 9th March, 1837.

I have the honour to acquaint you that, the Reverend James Allan having been recommended to me by the Committee of the General Assembly of the Church of Scotland on Colonial Churches, and satisfactory testimonials having been adduced as to his fitness to fill the office of Minister of the Presbyterian Church of New South Wales, I have given my sanction to his appointment.

As I perceive that, in the financial Estimate for the present year, provision has been made for securing Salaries to eight Presbyterian Ministers in New South Wales, I trust that Mr. Allan and Mr. Hetherington, whose appointment was notified to you by dispatch of the 22nd Ultimo, will thus have had salaries secured to them to commence immediately on their arrival.

I have, &c..

GLENELG.

LORD GLENELG TO SIR RICHARD BOURKE.

(Despatch No. 274, per ship Mangles.)

17 March.
Refusal of
land grant for
E. Bunker.

Sir,

Downing Street, 17 March, 1837.

I have to request that you will inform Mr. Eber Bunker, a Settler at Liverpool, New South Wales, that I have received his Memorial dated the 10th September last, in which he applies for a Grant of 2,560 acres of Land, in consequence of services rendered by him while following the occupation of Master of a Merchant Vessel. You will at the same time inform him that

I do not perceive in his statement anything to justify my relaxing in his favour the existing Land Regulations, to the strict observance of which His Majesty's Government are pledged.

1837.
17 March.

I have, &c.,
GLENELG.

LORD GLENELG TO SIR RICHARD BOURKE.

(Despatch No. 275. per ship Lloyds.)

Sir, Downing Street, 21st March, 1837.

21 March.

I have the honour to transmit to you for your information a copy of a Report* of a Select Committee of the House of Commons, which was appointed during the last session to enquire into the disposal of Lands in several of the British Colonies.

Transmission of report of select committee re disposal of lands.

As the subject has an important bearing on the interests of the Colony over which you preside, I shall be happy to receive from you any observations and suggestions, which may occur to you after perusing the Report and the Evidence which accompanies it.

I have, &c.,
GLENELG.

LORD GLENELG TO SIR RICHARD BOURKE.

(Despatch No. 276. per ship Lloyds; acknowledged by Sir Richard Bourke, 8th September, 1837.)

Sir, Downing Street, 23d March, 1837.

23 March.

With reference to my Despatch of the 18th of September last, No. 211, I have now the honour to transmit to you for your information and guidance the copy of a letter addressed by my direction to the Secretary to the Treasury, detailing the arrangements which after mature consideration I have felt it my duty to recommend with the view to a more efficient and systematic scheme of Emigration to the Australian Colonies.

Reform in system for emigration.

The proposed arrangement having been sanctioned by the Lords Commissioners of the Treasury, I hope to be enabled very shortly to acquaint you that a Gentleman, in every respect qualified for the performance of the important duties to be attached to the office, has been appointed Chief agent of Emigration; and I trust that every facility will henceforth be afforded to such an appropriation of the funds applicable to Emigration from Great Britain to New South Wales, as may render them essentially conducive to the interests both of this country and of the Colony.

Proposed appointment of chief agent.

I have to request that, in furtherance of the proposal contained in the enclosed letter, you will at the commencement of each financial year transmit to the Secretary of State a statement

1837.
23 March.

Statements
required *re*
funds available
for emigration.

of the balance (if any) of the fund applicable to Emigration remaining unexpended at the close of the preceding year; together with an estimate of the probable amount of the funds to be derived from the sale of Crown Lands within the Colony and applicable to the service during the ensuing Year. You will consider yourself at liberty to appropriate one third of this sum to the payment of Bounties on Emigrants introduced by private settlers on the terms of your Government notice* of the 28th October, 1835, and the remaining two thirds will be expended under the direction of the Chief Agent for Emigration in this country. You will at the same time transmit to me a detailed statement of the expenditure during the preceding year of the one third, which will have been appropriated on the terms of the notice to which I have referred.

Ships with
emigrants.

I trust that, before you receive this Despatch, the ships "John Barry" from Dundee and "Adam Lodge" from Londonderry, with the Emigrants selected respectively by Doctors Boytor and Osborne, will have arrived in the Colony, and that they will be followed after an interval of a few weeks by the ship intended to sail from Portsmouth under the charge of Doctor Galloway.

Delay in
selection of
emigrants by
naval surgeons.

Altho' I have every reason to be satisfied with the zealous attention which these gentlemen have bestowed on the discharge of their duties, a longer time has in each case been consumed in the selection of the Emigrants, according to the Instructions with which they were furnished by you on leaving New South Wales for this purpose, than was originally anticipated. I am strongly disposed to think, from the experience which has been acquired even since the date of the enclosed letter, that it will be expedient for the future to separate the duty of selection from that of superintendence during the voyage to the Colony; and that time and expense may be saved by the employment, for the selection of the Emigrants, of Agents exclusively devoted to this object. As Mr. Boytor's health has induced him to decline the responsibility of proceeding himself to New South Wales with the Emigrants from Dundee, I hope to be enabled to avail myself of the Continuance of his Services in the Selection of other Emigrants, who may sail for Sydney in the course of the present Spring or Summer; and at all events, pending the interval which must elapse before I receive a reply to my Despatch to you of the 18th of Sept. last, I shall avail myself of such temporary agency as may be necessary for carrying on the requisite duty of communicating personally with Individuals in different parts of Great Britain and Ireland, who may be desirous of emigrating to New South Wales.

Agents to be
employed in
selection of
emigrants.

Proposed
employment
of D. Boytor.

I have, &c.,

GLENELG.

* Note 176.

[Enclosure.]

1837.
23 March.

UNDER SECRETARY STEPHEN TO MR. A. Y. SPEARMAN.

Sir, Downing Street, 9th January, 1837.

I am directed by Lord Glenelg to request that you would bring the following statement and suggestions, on the subject of Emigration to the British Colonies, under the consideration of the Lords Commissioners of His Majesty's Treasury. Their Lordships are aware that a Committee* of the House of Commons was appointed during the last session of Parliament to enquire into the disposal of Lands in certain of the British Colonies; and that in a Report made by that Committee to the House were contained various recommendations for the better conduct of that Branch of the Public Service. Amongst these, was the establishment of a Board resident in London, with a subordinate agency in the Colonies, for the purpose of effecting the sale of the Waste lands of the Crown, and applying the net proceeds to defray the expense of conveying poor emigrants thither. It is not Lord Glenelg's purpose on the present occasion to discuss the propriety of carrying this project into execution. He limits himself to the remark that, as far as respects the alienation of the Waste lands of the Crown, it appears to him, as at present advised, that such a Commission and Agency would be but ill-adapted to secure the Settlement of the unoccupied lands in the Australian Colonies on sound principles. Lord Glenelg is not therefore prepared, at present, to recommend to their Lordships the establishment of a Colonial Land Board. On the other hand, the deference due to the Judgment of a Parliamentary Committee compels his Lordship to suspend his final opinion upon this question, until it shall have undergone further consideration.

Problems of emigration.

Recommendations by committee of house of commons.

It appears, however, to his Lordship that to promote and regulate the Emigration from this country to the Australian Colonies on sound principles, and to take adequate securities for the proper application to that purpose of the proceeds of the sales of the unsettled Lands of the Crown are objects of the highest importance; for the attainment of which, more comprehensive and systematic provision should be made than that which at present exists.

Appropriation of land revenues for emigration.

The extent of the Revenue raised from the sales of unsettled Crown Lands in New South Wales exceeds the most sanguine anticipation entertained at the time when the existing regulations for the disposal of land were promulgated by Lord Ripon in 1831. So completely has the rigid adherence to the principle of these regulations on the part of the Government been justified by experience, that the annual receipts from those sales in New South Wales has rapidly and progressively increased since 1831; and there is reason to believe that the amount arising from this source during the present year will not fall short of £100,000. The arrangements however for the employment of these funds have not hitherto kept pace with the rapidity of their growth; and Lord Glenelg considers that some more efficient agency should without delay be provided for securing the full benefit, which ought to accrue both to the Colonies and to this Country from the due administration of the means thus rendered available for emigration.

Progressive increase of land revenues.

In the uncertainty which, to a great extent, necessarily existed in 1831 as to the working of a system, at that time untried in the British Colonies, it would have been impossible without the risk of failure to have organized an extensive scheme of Emigration, which would be dependent on the proceeds of the future Crown

* Note 194.

1837.
23 March.

Emigration at
first restricted
to females.

Sales. Lord Ripon, however, laid down the principle of the application of these proceeds to Emigration; and, as the scale then contemplated was limited, it was proposed to make the experiment, in the first instance, with female Emigration. In pursuance of an arrangement to this effect, sanctioned by the Lords Commissioners of the Treasury, a considerable number of single females, selected through the agency of Emigration Committees in London and at Cork, have received a free passage to New South Wales and Van Diemen's Land. The Gentlemen composing these committees, whose services were gratuitous, have also superintended the whole of the arrangement relative to engaging and preparing the ships for the conveyance of the Emigrants, and providing the parties themselves with the requisites for the voyage. The expense of the passage has been defrayed by the Colonial Agent out of the funds transmitted from the Colony for that purpose. In addition to this expenditure, pecuniary aid to a limited extent has also been afforded from the same source, and through the same agency, to families of a specified age and class; but, as the assistance given was not nearly equal to the price of the passage, comparatively few persons have availed themselves of it.

Abolition of
exclusive
female
emigration.

Extension of
system for
encouragement
of emigration.

Experience having proved that, notwithstanding the care and attention bestowed on the details of these arrangements by the Committees in question, the system of exclusive female emigration was liable to serious objections, Lord Glenelg was induced, for the reasons stated in my letter to you of the 19th of August last, to recommend its discontinuance, with a view to the substitution of a more extended emigration on a principle better adapted to promote the welfare of the Emigrants and of the Colony to which they proceed. This subject engaged much of the attention of the local Government of New South Wales in the course of the year 1835; and measures have been taken in the Colony in the course of that and of the last year for promoting immigration from this country to a far greater extent than it had previously prevailed. A Committee* of the Legislative Council of New South Wales was appointed in May, 1835, on the subject of immigration into that Colony from this Country; and their Report, a copy of which was transmitted to Lord Glenelg by Sir Richd. Bourke, and was enclosed in my letter to you of the 19th August, contained many valuable practical suggestions which his Lordship considers entitled to great consideration.

On the 28th October, 1835, a Government Proclamation,† a copy of which I enclose, was issued in the Colony, offering certain bounties on the introduction by settlers of Emigrants of a particular description. Their Lordships will perceive that this arrangement is as yet only temporary; but Lord Glenelg has reason to believe that it is generally acceptable in the Colony, and that many persons have already availed themselves of the advantages which it offers. He is also of opinion that, if vigilantly superintended by the Local authorities in the Colony, it will prove a cheap and effective mode of rapidly increasing the useful population of New South Wales.

Employment
of naval
surgeons to
procure
emigrants.

In addition to this Scheme, Sir Richd. Bourke, in pursuance of the intention expressed in his Despatch of the 14th October, 1835 (a copy of which was enclosed to you in my letter of the 19th of August), has sent to this Country three naval surgeons, and proposes to send others in succession, for the purpose of selecting and conducting to the Colony a certain number of Emigrants. Each of

* Note 46.

† Note 176.

the three agents, who have already arrived, are now employed in the performance of this duty.

The advantages of a local acquaintance with the Colony on the part of agents employed in the selection of Emigrants are obvious. On this point, Lord Glenelg fully concurs in the opinion expressed in the Report of the New South Wales committee on Emigration; and, although he was at first disposed to agree with their Lordships in regarding the plan adopted by Sir R. Bourke as involving an unnecessary amount of expenditure on account of agency, and consequently directed the Governor's attention to this point, he is on further consideration led to doubt whether any considerable diminution of expense would be effected by the substitution of any other equally efficient agency. On comparing the remuneration proposed by Sir Richd. Bourke to these agents (exclusive of the allowances made to them for a limited time while engaged in the selection of Emigrants) with that which is received by Naval surgeons appointed by the Admiralty to the superintendence of convict ships, Lord Glenelg finds that the difference in amount is very trifling. It is indispensably necessary that a surgeon should accompany each ship chartered for the conveyance of Emigrants to the Australian Colonies; and Lord Glenelg concurs in the opinion of the New South Wales Committee as to the expediency of engaging naval Surgeons for this service. Advantage may also be derived from the Emigrants being accompanied to the Colony by a person of known character and respectability, with whom they have been in personal communication previous to their embarkation. His Lordship at the same time considers this arrangement as at present only experimental, leaving it to be decided by experience, and after further communication with Sir Richd. Bourke, whether a more efficient and less expensive agency might not be obtained by the employment of agents in this Country, who have acquired practical information by a previous residence in the Colony, and who should be exclusively engaged in the selection of Emigrants, without being required to conduct them to the Colony. His Lordship however entertains a decided opinion that whatever may be the ultimate resolution on this point, which is a matter capable of easy adjustment, some presiding agency should permanently exist in this country for the purpose of superintending the details of the system, which must be carried on here, of securing uniformity in the proceedings of the different agents and of supplying the deficiencies which would necessarily attach to the unassisted and uncombined efforts of separate individuals in their respective spheres of operation. The New South Wales Committee, anticipating this necessity, assumed that the Emigration Committee in London would continue to afford their valued services, and that through this Channel the agents connected with the Colony might derive that local information and assistance which are essential to the due selection of Emigrants. Lord Glenelg is of opinion that this has become far too important a branch of the Public Service to be committed to a gratuitous and desultory agency, and that it ought without delay to be entrusted to a responsible officer of the Government, acting under the authority and instructions of the Secretary of State, and receiving a competent remuneration for his services.

The following therefore is the outline of the plan, which his Lordship proposes to adopt with reference to this subject.

First. In order to obviate the inconvenience and confusion, which might result from the fund applicable to emigration being liable

1837.
23 March.

Advantages of
employment of
naval surgeons.

Necessity for
appointment of
chief agent.

1837.

23 March.

Proposal for
appropriations
of land
revenues ;

for employ-
ment of naval
surgeons ;

and for
appointment
of chief agent.

Duties proposed
for chief agent.

to unlimited Drafts from separate sources, Lord Glenelg would instruct the Governor of New South Wales to appropriate not less than two thirds of the available Land Revenue to Emigration, to be superintended in this Kingdom, the remaining third to be appropriated to Emigration to be conducted by the individual agency of resident Colonists, on the plan contained in the Proclamation of the 28th October, 1835.

Secondly, Lord Glenelg proposes to sanction the continued employment by the Colony of Naval Surgeons as Agents for the selection and conveyance of Emigrants, or, should it hereafter appear more desirable, the appointment of one or more resident agents in their stead, whose duty it would be to visit different parts of the Kingdom and to communicate personally with parties desirous of emigrating, with a view to the selection of the most suitable.

Thirdly, Lord Glenelg proposes to appoint an officer, with the denomination of Chief Agent for Emigration, who would be settled in London.

To this officer, all communications from various parts of the Country, either asking information with respect to Emigration or soliciting assistance towards it, could be referred. The Governors of the several Colonies, in which any Land fund might be raised applicable to the purpose of Emigration, would also be directed to transmit through this office to the chief agent statements of the description of emigrants most required in the respective Colonies, and of the advantages which they would there enjoy. He would, moreover, be in constant correspondence with the subordinate agents in this Country, who would act generally under his superintendence, and receive from him such local information and instructions as would enable them with the least delay and difficulty to effect the selection of a sufficient number of Emigrants for any particular ship. To him likewise would be entrusted the care of providing suitable means of conveyance, of securing a due inspection of the ships chartered for this service, and of fixing the time and Port of embarkation. He would likewise receive from time to time from each of the subordinate agents a detailed report of their proceedings, with an accurate list of all the emigrants selected by them, specifying their christian and surnames, age, occupation, and place of residence in this Country, and the name of the ship in which they were embarked. The arrival of each ship in the Colony would also be reported to him, and a correct list of all the passengers landed from it would at the same time be transmitted to him, together with a general Report of the voyage, including any Special circumstances which may have occurred. Such a Report would be furnished by the Medical officer accompanying the Emigrants. The whole of the information thus received would be recorded in a form which would enable him readily to answer any enquiries, which might be addressed to him by the relatives or friends of the Emigrants. It would also be his duty to collect and digest all the information, which he could derive from any authentic sources, of a nature calculated to be useful to Emigrants to any of the British Colonies; and he would be required to make to the Secretary of State periodical Reports of his proceedings, including those of the agents acting under his superintendence, in order to their being laid before Parliament and rendered available for the use of the Public at large.

With this view, Lord Glenelg would propose that the Emigration agents, already stationed at some of the principal Ports of the

Kingdom, and provided for on the annual Estimates submitted to Parliament, should be placed in communication with and under the superintendence of the chief agent.

1837.
23 March.

In the preceding observations, Lord Glenelg has chiefly adverted to the Colony of New South Wales, because the funds applicable to Emigration to that Colony very far exceed those of either Van Diemen's Land or Western Australia. His Lordship however conceives that the same principle and the same machinery should be applied to the promotion of Emigration to both the latter Colonies, to the full extent of the funds which may be available from these Colonies respectively for such an application.

Similar principles to be adopted for emigration to Tasmania and West Australia.

Lord Glenelg has been induced to propose the appointment of a single officer rather than that of a Board for this service, from his not anticipating that at present the duty would be more than could be efficiently discharged by one person properly qualified for the office, and assisted by one or at the most two clerks. His Lordship, however, cannot but consider the scheme as in great measure experimental; nor can he undertake now to form a definite opinion of the extent of the Agency which the probable increase of Emigration under a well arranged system may ultimately render necessary. He is anxious in the first instance to place the Establishment on the lowest scale consistent with the effective discharge of the duties, which will immediately devolve upon it, and for which some provision is urgently required.

Appointment of agent preferred to board.

Lord Glenelg therefore recommends that the Lords Commissioners of the Treasury should authorise the appointment of a Chief Agent for Emigration, with a Salary commensurate to his duties, and with a provision for at least one clerk, and for such contingent and incidental expenses as may be indispensably necessary for the due performance of this service. The amount of the Salary to be attached to the office can only be satisfactorily fixed after some experience of the degree of labor and responsibility which it will involve; but Lord Glenelg considers that £1,000 a year may safely be taken as the maximum.

Request for approval of establishment for chief agent.

Salary for chief agent.

In providing for the expense of the proposed Establishment, it must be borne in mind that a very large proportion of the time and labor of the Agent General will be devoted to emigration to the Australian Colonies, and especially to New South Wales; and that it is therefore perfectly reasonable that a large proportion of the expense should be defrayed from the funds arising from the sale of Lands in those colonies to be apportioned among them respectively, according to the number of Emigrants annually sent to each. As however some portion of the duties proposed to be attached to the office will have reference to the general details of Emigration, irrespective of any particular colony, and will have an important bearing on British Interests, Lord Glenelg is of opinion that some portion of the expense should be defrayed from the funds of this Country, on the same principle as that on which Parliament provides for the Salaries of the Emigration Agents stationed at various Ports of the United Kingdom. His Lordship would therefore propose that a sum of £300, towards defraying the expense of this office, should be added to the Parliamentary Estimate for Emigration Agents for the ensuing year; and that the remainder of the expense should be defrayed out of the funds arising from the proceeds of Land in the Colonies, to which I have before referred on the principle already suggested.

Apportionment of expense of establishment of chief agent.

I have, &c.,

JAS. STEPHEN.

1837.
23 March.

LORD GLENELG TO SIR RICHARD BOURKE.
(Despatch No. 278, per ship Charles Kerr.)

Sir, Downing Street, 23d March, 1837.

Petition
received from
immigrants.

I have had the honour to receive a Petition,* dated Sydney, New South Wales, December, 1835, which has been addressed to me by Lieutenant Biddulph, R.N., and various other persons who have arrived in the Colony since 1830, bringing under my notice the disappointment and losses which they have sustained in consequence, as they allege, of the system of selling the Crown Lands at Public Auction, and soliciting for themselves and all those, who have settled in the Colony since 1830, Grants of Land according to a graduated scale stated in the Memorial.

Reforms and
concessions
proposed by
petitioners.

The Petitioners also submit for adoption the following propositions, vizt.:—

1st. The Abolition of the system of selling Crown Lands by Auction.

2nd. The institution of a fixed minimum price, at which Crown Land should be sold to all applicants.

3rd. The allowance in Land to all newly arrived Emigrants of the expences of their passage, according to the scale before mentioned; and

4th. The improvement of the Survey Department.

Regret at
disappointment
of immigrants.

I have perused with much attention the statements contained in this Memorial, and it is with pain that I learn that the sanguine expectations indulged in by the Parties before quitting this country have been disappointed.

The Petitioners appear to be fully aware of the fact that the information, published by the late Commissioners of Emigration, as to the wants of the Colony in respect to Labourers, and as to the rates of Wages and prices of Provisions, was copied verbatim from a Colonial Paper, the veracity of which there appeared no reason to doubt; when, however, the inaccuracy of this information became known, no time was lost in withdrawing from circulation the printed Memorandum in which it was contained.

You will have the goodness to inform the Petitioners that, altho' I sincerely regret their disappointment, I do not feel myself at liberty to comply with their applications for Grants of Land.

Refusal of
land grants
for immigrants.

You will also inform them that the existing system of alienating the waste Lands of the Crown having been deliberately adopted, and having been repeatedly and Publicly announced as the Plan upon which alone a Title to such Lands could be acquired, it would be impossible, without an actual breach of faith and a departure from a principle, the value of which has been proved by experience, to revert to the former method of disposing of those Lands.

* Note 195.

With regard to the inconvenience said to arise from the infrequency of sales by auction, and from the inefficiency of the Survey Department, I need only remark that it is in your power to apply a remedy for those evils, if it should appear on enquiry that they really exist.

I have, &c.,

GLENELG.

1837.
23 March.

LORD GLENELG TO SIR RICHARD BOURKE.
(Despatch No. 279, per ship Charles Kerr.)

Sir,

Downing Street, 26th March, 1837.

26 March.

I have received your despatch No. 90 of the 13th of August last, enclosing a Memorial from Messrs. Harrison and Bull, praying for compensation for the loss sustained by them from the wreck of the Schooner "Friendship" at Norfolk Island, which they attribute to the insufficiency of a Buoy laid down by His Majesty's Ship "Alligator" during the previous year.

Despatch
acknowledged.

The statement of the Petitioners is in substance that their vessel bound from New South Wales to Tahiti made a deviation from her course in order to land certain Government Stores at Norfolk Island; that, on her arrival at that place, she was moored to a buoy which had been laid down under the orders of the Local Government for the security of Navigators; that the Buoy gave way in consequence of the chain by which it was attached to the anchorage not having been properly secured; that the vessel and her cargo were driven on shore and wrecked; and that the loss to the owners amounts to £1,500. For this loss, they demand an indemnity from the Government: first, because the ship was engaged in the Public Service; and secondly, because the Buoy had been insecurely fastened by His Majesty's Naval Officers.

Claims for
compensation
by J. Harrison
and H. Bull.

The first of these grounds is plainly untenable. The service was rendered to the Government of New South Wales in consideration of a sum, which of course was so estimated as to cover the risque incurred by the deviation to Norfolk Island. In the absence of any proof or allegation to the contrary, it must be assumed that the ship owner obtained for the service rendered such a price as to indemnify him not only for that service but also for the danger incurred. With reference to the claim against the British Government, it amounts in effect to this, that the Treasury are bound to pay for the loss consequent on the alleged imperfect discharge of a service which the Government were not under any obligation to discharge at all. The Buoy placed off Norfolk Island may or may not have been improperly constructed, but it does not clearly appear that the ship might not

Criticism
of claims.

1837.
26 March.

have been anchored in the usual manner, or that her loss is to be attributed to any other cause than the violence of the wind against which no sufficient security could have been taken. I cannot therefore see any adequate grounds for charging the Public with the loss incurred on this occasion.

Refusal of
compensation.

I have, &c.,
GLENELG.

LORD GLENELG TO SIR RICHARD BOURKE.
(Despatch No. 280, per ship Charles Kerr.)

27 March.

Sir, Downing Street, 27th March, 1837.

Transmission
of instructions
re public
buildings.

I have the honour to transmit to you for your information and guidance a copy of a letter from the Secretary to the Treasury communicating the arrangements proposed by that Board to be adopted with regard to the repair of the Public Buildings entrusted to the charge of the Ordnance officers at New South Wales and Van Diemen's Land; and I have to desire that you will take the necessary measures for carrying into effect the views entertained by their Lordships on this subject.

I have, &c.,
GLENELG.

[Enclosure No. 1.]

MR. A. Y. SPEARMAN TO UNDER SECRETARY STEPHEN.

Sir, Treasury Chambers, 22 March, 1837.

Instructions re
maintenance
of public
buildings.

The Lords Comsrs. of H.M. Treasury having had before them the further letter from the Secretary of the Ordnance, dated 22d Ulto., on the subject of the transfer of certain Buildings at Van Diemen's Land to the charge of the Ordnance Department at that station, I am commanded by their Lordships to transmit a copy thereof to you to be laid before Lord Glenelg, and to request that, in submitting it to his Lordship, you will state to him, with reference to the arrangements for the employment of a Branch of the Ordnance Department in the Australian Penal Settlements and to the particular subject of this communication, that it will in their Lordships' opinion be advisable that the duty of executing the ordinary repairs of the Buildings occupied for purposes connected with the Convict and Medical Establishments, with the necessary power to incur expenditure for this purpose, should be devolved on the officers of Engineers; that, conformably with the practice of the Ordnance Department, the requisitions for ordinary repairs to the Convict Barracks and Buildings may properly be addressed to the Commanding Engineers by the principal Superintendents of Convicts in the respective Colonies, and those for the ordinary repairs of Hospitals by the Principal Medical Officers; and that the Commanding Engineers should be authorised upon such requisitions and subject to their concurrence in the necessity for the work to cause the repairs to be executed, observing in all other respects the rules under which similar works, for which provision is made in the Ordnance Estimates, is carried on.

I am at the same time commanded to request that you point out to Lord Glenelg that it is the opinion of my Lords that the discretionary power thus proposed to be vested in the officers of the Royal Engineers should be strictly confined to such ordinary and indispensable repairs as are required to preserve the Buildings from dilapidation, and they propose to call for such detailed returns and estimates relating to all Buildings of the description to which the arrangement has reference, as may enable them in future years to assign an amount of Expenditure which the Commanding Engineer shall not be at liberty to exceed without an express authority from the Governor of the Colony.

1837.
27 March.
Instructions re
maintenance
of public
buildings.

As, however, my Lords are not at present in possession of information that would enable them to fix any precise limits for the amount of expenditure to be thus incurred in each of the Colonies in question during the ensuing financial year, they suggest that the Governors should be respectively directed to call for such estimates, and, upon being satisfied of the necessity of the expenditure, should be authorised to give their sanction for expending the amount thereof in the course of the year in the same manner as the future expenditure will be sanctioned by their Lordships.

Their Lordships further command me to state that they consider it advisable that any extensive repairs or alterations of the Buildings in question, as well as the erection of New Buildings, should still be the subject of special report from the local Governments for the previous authority of H.M. Govt. except in cases of unforeseen emergency, and that they will await the command of his Lordship in the arrangements now proposed before they communicate further on the subject with the Master General and Board of Ordnance.

I am, &c.

A. Y. SPEARMAN.

[Enclosure No. 2.]

MR. R. BYHAM TO MR. A. Y. SPEARMAN.

Sir, Office of Ordnance, 22 February, 1837.

Having submitted to the Master General and Board of Ordnance your letter dated 3d Inst., conveying the decision of the Lords Commrs. of the Treasury that the expenditure for Gaols, Watchhouses, and other Buildings appertaining to the Judicial and Police Establishments in Van Diemen's Land should be defrayed by the Colonial Government, and consequently that these buildings will not be under the charge of the Ordnance officers, but that the Hospitals are to be considered as appertaining to the Convict Establishments, and the maintenance and repair of the Buildings are to be provided for in the same manner as that of the Ordnance Barracks; I have the honor by the Master General and Board's Commands to acquaint you for their Lordships' information that it is considered very desirable that the Commanding Royal Engineer should have distinct instructions as to the Person or Persons from whom he should receive requisitions for repairs or alterations from time to time necessary for the maintenance of the Buildings and the due accommodation of its occupants.

Arrangements
for control and
repair of
public
buildings.

In no case, the Master General and Board beg to observe, except as regards the actual fortifications, is the Engineer Dept. in charge of any Buildings, but is authorised to undertake casual or incidental

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27 March.

Necessity for
instructions
re officer
responsible for
requisitions
for repairs to
buildings.

repairs upon the requisition of the resident officer, with whom the actual charge is vested. This charge under the existing regulations rests respectively with the Storekeepers, Barrack Masters, or Revenue Officers, for which Branches of the Service the buildings are maintained; and it appears in the case of the Convict Buildings in the Australian Colonies, which the Master General and Board apprehend will call for much expenditure of an urgent nature under the Commanding Engineer, that that officer should fully understand from whom he is to receive the necessary requisitions and explanation of what the Convict Service requires, upon which requisition the responsibility of incurring the expense will attach, so that the course of proceeding in regard the incidental expenditure upon those Buildings may assimilate to that of Casual Barrack repairs on home or that of Foreign Stations, whichever their Lordships may decide. The former will ensure a more early and less complicated attention to the service; the latter, which prescribes the previous authority of the respective officers, of course may occasion some delay; and therefore, for these distant Colonies together with the funds for Convict buildings not being provided by the Ordnance, the Master General and Board would certainly recommend the former, limiting the Commanding Engineer to the sums that may be allowed upon the annual estimates for the year; and, if any additional amount should be requisite, that he should previously receive the sanction of the Governor.

The Master General and Board request you will move their Lordships to be pleased to send the proper instructions to the authorities at Van Diemen's Land for carrying into effect their Lordships' decisions on the points now submitted for their consideration, and also favor the Master General and Board with a communication of the same.

I have, &c.,

R. BYHAM.

LORD GLENELG TO SIR RICHARD BOURKE.
(Despatch No. 281. per ship Charles Kerr.)

29 March.

Sir,

Downing Street, 29th March, 1837.

Correspondence
re immigration
of foreigners.

I have the honour to transmit to you for your information and guidance the enclosed copies of a correspondence, which has taken place between my Under Secretary and Major Macarthur and Doctor Lang, on the subject of the proposed application of a Portion of the proceeds of the Sales of Land in New S. Wales to the emigration of Foreigners.

Objections to
subsidies for
immigrants
from foreign
countries.

In perusing the official notice* of October, 1835, transmitted in your Despatch of the 30th of April, 1836, my attention was not originally directed to the fact that you contemplated that the Bounties, to be paid on the terms of that notice, might be claimed in respect of Foreigners. Nor can I, as a general rule, sanction such an application of the funds available for Emig'n. as it would tend to defeat one great object which Emigration is calculated to promote, so far as the interests of this Country are concerned.

* Note 176.

The Special Circumstances, stated by Major Macarthur and Doctor Lang, have induced me to give my assent to the introduction of a limited number of foreign Vine-dressers by each of those gentlemen, on the present occasion; but I wish you to let it be understood in the Colony that the terms of the notice of October, 1835, are not, for the future, to be considered as extending to Immigrants introduced from foreign countries.

1837.
29 March.
Concessions for immigration of foreign vine-dressers.

I have, &c.,
GLENELG.

[Enclosure No. 1.]

MAJOR MACARTHUR TO SIR GEORGE GREY.

Sir. 1 Burlington Gardens, 15th March, 1837.

I do myself the honor to acquaint you for the consideration of Lord Glenelg that, agreeably to the terms of a Public Notice, issued by the Local Government of New South Wales, bearing date Sydney, October, 1835, my Brothers, Messrs. James and William Macarthur, applied for permission to introduce into that Colony several Families of English Farm Servants, and twelve married couples from the Continent of Europe, skilled in the culture of the Vine and in a general system of rural economy adapted to the Climate.

Request by J. and W. Macarthur for permission to introduce immigrants.

Upon the receipt of information from my Brothers that His Excellency Sir Richard Bourke had been pleased to accede to their application, I lost no time in engaging 16 Families of Agricultural Servants, comprising in all 56 persons, from the County of Dorset, who embarked by the Ship Brothers in November last. Particulars of the arrangements for their passage to the Colony will be found in a printed Paper, which I have the honor to enclose. After much trouble and enquiry, I have since succeeded in making engagements with several families from the German Provinces on the Rhine of the description specified, and possessing the requisite qualifications of a thorough practical knowledge of the cultivation of the Vine, as well as of a system of husbandry suited to the Climate of New South Wales, and of which the Agricultural Population of the British Islands are entirely ignorant. But, after entering into these arrangements, I now find that there is a difficulty in obtaining the passports necessary for their embarkation, without some assurance from the British Consul at Frankfort that the Emigration of these families to New South Wales is sanctioned by His Majesty's Government.

Agricultural labourers sent from Dorset.

German vine-dressers engaged.

Difficulty re passports.

It may not be immaterial that I should submit to his Lordship the grounds upon which the Governor was induced to offer encouragement for the introduction into the Colony of a limited number of Foreigners. And in the first place I would beg to observe that the arrangement is considered as an exception to the general rule and acceded to only upon strong special reasons. This is clearly understood by those Colonists, who have in this respect availed themselves of the conditions of the official Notice of the 28th October, 1835, before adverted to. Great benefit is likely to accrue to the Parent Country, as well as to the Colony, from the production of Wine, Olive Oil, Silk, dried fruits and other valuable articles, for

Reasons for permission received for immigration of foreigners.

1837.

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Reasons for
permission
received for
immigration
of foreigners.

which the climate and soil of New South Wales are ascertained to be well adapted, and which require only practical knowledge to ensure their successful cultivation. Without this knowledge, there must be great loss of time, as well as of Capital, in the first essays, whereas, by the introduction of a few Families possessing the requisite experience and skill, not only will this loss be prevented, but their knowledge will become generally diffused amongst the Colonists. The natural resources of the Country will thus be brought into earlier and more advantageous operation than would otherwise be possible, at the same time that new fields will be opened for Colonial enterprize and for the *employment of the surplus labor of the Parent Country.*

My Brothers have already as much as twenty acres of Vineyard (besides more ground in preparation), two thirds of which will be in full bearing next summer, and it is of importance that the Families I have engaged should arrive some months before the Vintage, which takes place in January or February. They have also many Olive Trees planted out, and likely soon to produce Fruit in considerable quantity. Oil has been made by them to a small extent of excellent quality, as well as wine of a description well suited for the ordinary purposes of home consumption. The Mulberry Tree grows luxuriantly, and the climate seems peculiarly favorable to the Silk Worm. Figs, plums, pears, apples, in short nearly all the varieties of fruits are produced in rich flavor and in abundance, so that dried fruit might, in the course of a few years, become a considerable article of Colonial Produce. Wine, there can be no doubt, may in a very short time by the application of Capital and practical skill be produced in such quantity as to supply a cheap and wholesome beverage for the laboring Classes; and this will probably afford the best check to the consumption of ardent spirits, which now takes place to a lamentable extent, and is a principal cause of the disorder and crime so prevalent in the Colony. To ensure the accomplishment of objects thus desirable, at the earliest possible period, is the chief end, which the Governor has had in view in holding out encouragement for the introduction into New South Wales of a limited number of Agricultural Families from the Continent of Europe.

Request for
instructions
re passports;

Under the circumstances now submitted, I trust Lord Glenelg may feel himself justified in receiving this as a special case, and that he will be pleased to direct such an official communication to be made as will enable His Majesty's Consul at Frankfort to remove the impediments which prevent the departure of the families of Vignerons, engaged for my Brothers in conformity to the conditions offered by the local Government of New South Wales. And at a future time, perhaps, his Lordship will admit the policy and adopt the principle of permitting a limited portion of the Fund, arising from the Sale of Colonial Lands, to be made available towards the introduction into the Australian Colonies of Foreigners, skilled in the culture of such products as Natives of the United Kingdom are unacquainted with; first, because the introduction of persons so skilled is a Public benefit, and their number will always be small in proportion to that of Emigrants from this Country. And secondly, that, unless thus aided, it is in vain to expect that any Individual will embark capital in an undertaking so uncertain as the introduction into a distant Country of useful families, when

and for bounty
for immigration
of foreigners.

there can be no assurance or guarantee that, after the expence and trouble incurred, they will not quit his service either from caprice, or to engage with parties, whose Capital not having been expended in their introduction into the Colony can afford to pay them a higher rate of Wages.

1837.
29 March.

I have, &c.,
EDWARD MACARTHUR.

[Sub-enclosure.]

[*This was an eight-page 8vo. pamphlet, entitled "Account of the Emigration to New South Wales of Fourteen Agricultural Families from the County of Dorset."*]

[Enclosure No. 2.]

REVD. J. D. LANG TO SIR GEORGE GREY.

Sir, 16 West Square, 11th March, 1837.

I have the honor to inform you that my Brother, Mr. Andrew Lang of Hunter's River in New South Wales, having obtained the authority of the local Government to import a hundred families of Agricultural Laborers, Shepherds, Mechanics and Vine-dressers into that Colony, agreeably to the conditions specified in the Proclamation of the Colonial Government of date 28th October, 1835, has authorized me to procure a certain number of these families from the more southern parts of the Continent of Europe, where the character of the cultivation is more adapted to the Soil and Climate of the Australian Colonies than that of Great Britain. I have accordingly ascertained, during the last four weeks, and after two unsuccessful attempts in France and in the Kingdom of Wurtemberg, to which I proceeded successively in the first instance, that this object of so much importance to the Colony of New South Wales can be easily accomplished in the German States on the Upper Rhine, where the agricultural population generally are not only accustomed to the cultivation of the vine but strongly disposed to emigration.

Permission for A. Lang for introduction of immigrants.

Emigrants available in German states.

As Emigrants, however, from that part of Europe have not unfrequently been the dupes of artful speculators and have arrived at their port of intended embarkation in entire destitution, His Majesty's Consuls at Frankfort and Rotterdam, to whom I applied personally for information on the subject, informed me that the German and Dutch Government would require some recognition on the part of His Majesty's Government of the authority under which industrious and virtuous families were invited from their native Country to New South Wales, before such Families could be permitted to leave their native Territory or to pass through Holland on their way to the Port of embarkation.

Necessity for approval by British government of proposed emigration.

I do myself, therefore, the honor to request that you will do my Brother and myself the favor to notify to the Right Honorable His Majesty's Secretary of State for Foreign Affairs, with a view to his forwarding copies of such notification to His Majesty's Consuls at Frankfort and Rotterdam, the following particulars or information of such kind as you may think accordant with the facts of the case, vizt.:

Request for notification to consuls.

"1. That the Government of New South Wales have, under the authority of His Majesty's Government, adopted the system of granting bounties of £30 for each virtuous and industrious family imported into that Colony by any Colonial Proprietor, who has

1837.
29 March.
Request for
notification
to consuls.

previously obtained the authority requisite from the Colonial Government to that effect; provided such families correspond to the description specified in the Government Regulations.

"2. That, as such authority is only given in cases in which the Colonial Executive are satisfied that the applicant is both able and willing to make the requisite arrangements for the immediate conveyance of the Emigrants to New South Wales from their port of embarkation on their arrival at the said Port, and for their comfortable settlement on their arrival in the Colony, there is a virtual guarantee afforded that they shall not be left in destitution either in Europe or in New South Wales.

"3. That Mr. Andrew Lang, of Hunter's River in New South Wales, has obtained an authority of this kind from the Colonial Government for the importation of one hundred families, partly with a view to the introduction into the Colony of families accustomed to the cultivation of the Vine from the Continent of Europe."

A notification of this kind, on the part of His Majesty's Government, to the Consuls at Frankfort and Rotterdam, M. Koch and Sir Alexander Ferrier, would, I have been given to understand, be satisfactory to the Continental Governments in the case in question.

I beg leave to enclose the authority received by my Brother from the Government of New South Wales, which I request may be returned.

I have, &c.,

JOHN DUNMORE LANG.

[Enclosure No. 3.]

SIR GEORGE GREY TO MAJOR MACARTHUR.

Sir,

Downing Street, 29th March, 1837.

Letter
acknowledged.

I am directed by Lord Glenelg to acknowledge the receipt of your Letter of the 15th Instant, detailing the measures which you have adopted agreeably to the terms of a Public Notice issued by the local Government of New South Wales in Oct., 1835, for introducing Emigrants into the Colony, and requesting that such an official communication may be made as will enable His Majesty's Consul at Frankfort to remove certain impediments which it is apprehended will prevent the departure from Germany of several Families of Vinedressers engaged by you to proceed to New South Wales. I am to inform you in reply that, in sanctioning the appropriation of the proceeds of the Sales of Crown Lands in New South Wales to Emigration, His Majesty's Government have been influenced by the desire of promoting at once the interests of this country and of the Colony, and that with this object they have not contemplated the application of their funds to any other emigration than that of Families from Great Britain or Ireland. It is obvious that no direct benefit could be derived by this country from the emigration to New South Wales of Families from any part of the Continent of Europe, and His Majesty's Government would, therefore, be unwilling to admit the principle of permitting the funds derived from the Sale of Lands to be made available towards the introduction of Foreigners into the Australian Colonies. Under the peculiar circumstances, however, stated in your Letter, and with reference to the specific object which you have in view, Lord Glenelg would be disposed to sanction the emigration to New South

Objections to
bounties on
foreigners as
immigrants.

Wales under the terms of the Notice before referred to of a limited number of German Families of the description which you have mentioned, it being distinctly understood that this permission is not to form a precedent for future cases, and that the number of families, to which on the present occasion it is to extend, is not to exceed 6.

1837.
29 March.
Permission for six German families as immigrants.

Lord Glenelg, however, does not feel himself at liberty to direct any official communication to be made on this subject to His Majesty's Consul at Frankfort, as he apprehends that such a proceeding would tend to create erroneous impressions as to the nature of the engagement into which the parties have entered, and for the fulfilment of which they must look, not to His Majesty's Government, but to the individual Settlers who are anxious to obtain their services.

Refusal to notify consuls.

I am, &c.
GEO. GREY.

[Enclosure No. 4.]

SIR GEORGE GREY TO REV. J. D. LANG.

Sir, Downing Street, 29th March, 1837.

I am directed by Lord Glenelg to acknowledge the receipt of your Letter of the 11th instant, informing me that your Brother, Mr. Andrew Lang of Hunter's River in New South Wales, having obtained the authority of the Local Government to import 100 Families into that Colony, agreeably to the conditions specified in the Proclamation of the Colonial Government of 28th October, 1835, has authorized you to procure a certain number of these families from the more southern parts of the Continent of Europe, and requesting, in order to enable you to obtain such foreign Emigrants, that a notification of the whole particulars mentioned in your Letter may be made to His Majesty's Consuls at Frankfort and Rotterdam.

Letter acknowledged.

I am to inform you in reply that, in sanctioning the appropriation of the proceeds of the Sale of Crown Lands in New South Wales to Emigration, His Majesty's Government have been influenced by the desire of promoting at once the interests of this Country and of the Colony; and that with this object they have not contemplated the application of these Funds to any other Emigration than that of Families from Great Britain or Ireland. It is obvious that no direct benefit could be derived by this Country from the Emigration to New South Wales of Families from the Continent of Europe; and His Majesty's Government are, therefore, unwilling to admit the principle of permitting the Funds derived from the Sale of Lands to be made available towards the introduction of Foreigners into the Australian Colonies. As, however, it appears that your Brother obtained from Sir Richard Bourke authority to introduce, under the conditions of the Proclamation of October, 1835, 100 Families, consisting amongst other descriptions of persons of Vine-dressers, and as you have actually taken measures for obtaining some persons of this Class, Lord Glenelg would be unwilling in the present instance to refuse his sanction to the application of a small portion of the Funds in question to the emigration of a limited number of Foreign Vine-dressers, it being, however, distinctly understood that such a permission is not to form a precedent for future cases, and that the number of Families to which, on the present occasion, it is to

Objections to bounties on immigrants as foreigners.

Permission for introduction of six families.

1837.
29 March.
Refusal to
notify consuls.

extend is not to exceed 6. Under these circumstances, Lord Glenelg does not feel himself at liberty to direct an official notification of the nature stated in your Letter to be made to His Majesty's Consuls at Frankfort and Rotterdam, as such a proceeding would in his Lordship's opinion tend to create an erroneous impression as to the nature of the engagement into which the parties, intending to emigrate, may have entered, and for the fulfilment of which they must look, not to His Majesty's Government, but to the Individual Settlers who are anxious to obtain their services.

I am, &c.,
GEO. GREY.

LORD GLENELG TO SIR RICHARD BOURKE.
(Despatch No. 282, per ship Charles Kerr.)

Sir, Downing Street, 29th March, 1837.

Concessions as
settlers to
retired officers
of Indian navy.

With reference to my dispatch* No. — of the —, I have the honor to transmit to you, for your information and guidance, a copy of a letter from the Secretary to the Commissioners for the Affairs of India, with a copy of a communication from the Board of Directors of the East India Company expressing the desire of the Court that the advantages which have already been conceded by His Majesty's Government to retired officers of the Company's Army settling in the Australian Colonies may be extended to retired officers of the Indian Navy.

As His Majesty's Government deem it expedient to adopt this arrangement, you are authorized to extend to retired officers of the East India Company's Navy, who may be provided with the proper certificates, of their Rank, and the length of their service from Competent Authorities, the same benefits† which would be granted to officers of the same rank and standing in the Royal Navy.

I have, &c.,
GLENELG.

[Enclosure No. 1.]

MR. R. GORDON TO UNDER SECRETARY STEPHEN.

Sir, India Board, 17th March, 1837.

Concessions
approved.

With reference to your letter of 27th June, 1837, relative to the admission of officers of the Indian Navy to the advantages held out to those in H.M. Service of settling in the Australian Colonies, I am directed by the Commissioners for the affairs of India to transmit to you for the information of Lord Glenelg copy of a letter received from the Directors of the East India Company.

I am desired further to request that Lord Glenelg will have the goodness to inform the Board when the requisite directions shall have been issued to the Australian Colonies for carrying the proposed object into effect, in order that the necessary Communication may be made to the Indian Govt.

I have, &c.,
R. GORDON.

* Note 196.

† Note 197.

[Enclosure No. 2.]

MR. J. C. MELVILLE TO MR. R. V. SMITH, M.P.

1837.
29 March.

Sir, East India House, 14th March, 1837.

I am commanded by the Court of Directors of the East India Company to request that you will submit to the Board of Commissioners for the Affairs of India the desire of the Court that the advantages, conceded last year by H.M. Govt. to retired officers of the Company's Army who feel disposed to settle in Australia and Van Diemen's Land, may also be extended to retired officers of the Indian Navy, vizt. :

Proposal for concessions to officers of Indian navy.

The remission of part of the purchase money, according to rank, of the Land they may buy of the Govt. on settling in those Colonies.

Should the Board of Commissioners concur in the Court's view of the subject, I am further to request that they will be pleased to make the necessary communication to the Colonial Secretary to obtain for the retired officers of the Indian Navy the privilege desired.

I have, &c.,

JAMES C. MELVILLE.

[Enclosure No. 3.]

UNDER SECRETARY STEPHEN TO MR. R. GORDON.

Sir, Downing Street, 30th March, 1837.

Having laid before Lord Glenelg your letter of 17th Inst., I am directed to request that you will acquaint the Commssrs. for the Affairs of India that his Lordship will immediately transmit to the Governors of New South Wales, Van Diemen's Land and Western Australia, to accord to retired officers of the East India Company's Navy, who may produce proper certificates of their rank and length of service from competent authorities, the same benefits which would be granted to officers of the same rank and standing in the Royal Navy on their settling in those Colonies.

Instructions to be transmitted.

I have, &c.,

JAMES STEPHEN.

LORD GLENELG TO SIR RICHARD BOURKE.

(Despatch No. 285, per ship Charles Kerr.)

Sir, Downing Street, 4 April, 1837.

4 April.

I have the honor to transmit to you a copy of a letter which I have received from Mr. John Dillon, relative to a pecuniary claim on Mr. Kinchela; and I have to request that you will communicate this letter to Mr. Kinchela for such explanations as he may be able and desirous to offer respecting Mr. Dillon's claim. You will, at the same time, express to Mr. Kinchela my regret that there should be occasion to call his attention again to this subject.

Transmission of letter from J. Dillon.

I have, &c.,

GLENELG.

P.S.—Since the above despatch was written, I have had the pleasure of receiving from Mr. Dillon a letter, in which he has informed me that a communication from Mr. Kinchela has reached him, dated the 22d Sept., 1836, accompanied by a remittance in part payment of his debt, and a promise of an early liquidation of the remainder.

Arrangements re debt by J. Kinchela.

1837.
4 April.

[Enclosure.]

MR. J. DILLON TO LORD GLENELG.

My Lord,

Dublin, 1st April, 1837.

Claim for debt
by J. Dillon on
J. Kinchela.

It is with extreme reluctance that I venture again to trespass on your Lordship on the subject of the Bond debt due to me by John Kinchela, Esqre., Attorney General in New South Wales; but my distressed circumstances are so great and pressing that I am compelled to state a few facts in connection with the subject in the humble hope that it may have the effect of inducing your Lordship to use your benevolent influence with that gentleman to save a poor and industrious family from destruction by sending out of his abundance the money so long due which he most faithfully promised to remit to me long since. In Novr., 1832, I wrote to my Lord Goderich then Colonial Secretary entreating his interference on the subject, and on the 28th of that month received his Lordship's reply directing me to write to Mr. Kinchela and that he would forward my letter to the Governor of New South Wales, Agreeably to which, I wrote to Mr. Kinchela, copy of which I enclose. I received a reply from Mr. Kinchela, dated Sydney, 30th Sept., 1833, Copy of which I also beg to enclose, by which your Lordship will perceive the full admission of my claim, the forbearance with which I have uniformly acted towards him, and the definite and positive promise of speedily remitting me the whole or part of the amount; but, notwithstanding up to this moment, I have neither directly nor indirectly received a single farthing from him. I do not presume to imagine that Your Lordship could or would use any mandatory influence with Mr. Kinchela; but I do hope and trust that Your Lordship may be graciously pleased (and I entreat your pardon if I ask too much) to signify to Mr. Kinchela your Lordship's *opinion* that he should, as in honor and Law bound, immediately discharge the debt now so long due to a poor industrious and confiding man, who in the time of need trusted to his honor, when he might have by legal means secured payment to himself many years since, but to have done which would, according to Mr. Kinchela's own admission, have precluded the possibility of his proceeding to take possession of his appointment and consequently have barred his subsequent promotion to his present high and lucrative situation.

I humbly pray your Lordship's pardon for this great liberty, which nothing but dire distress could compel me to and earnestly imploring your Lordship's interference in this matter in pity and compassion to the misery and sufferings of my poor family.

I have, &c.

JOHN DILLON.

LORD GLENELG TO SIR RICHARD BOURKE.
(Despatch No. 286, per ship Charles Kerr.)

6 April.

Sir,

Downing Street, 6th April, 1837.

Advance to
colonial agent
for purposes of
immigration.

I have the honour to transmit to you a copy of a letter which has been addressed to one of my Under Secretaries by the Assistant Secretary to the Treasury, stating for my information that their Lordships have issued to Mr. Barnard the sum of eight thousand Pounds to enable the Colonial Agents to defray the various incidental expences incurred in the hire and equipment

of vessels for the conveyance of the Emigrants to New South Wales, who may be selected respectively by Doctors Boyter, Osborne and Galloway; and I have to request that you will immediately cause that amount to be repaid into the Military Chest from the Emigration fund of the Colony under your Government.

1837.
6 April.

Instructions
for repayment.

I have, &c.,
GLENELG.

[Enclosure.]

MR. A. Y. SPEARMAN TO UNDER SECRETARY STEPHEN.

Sir, Treasury Chambers, 29th March, 1837.

I am commanded by the Lords Comrs. of H.M. Treasury to request that you will state to Lord Glenelg that my Lords, having received an application from the Agent General for New South Wales, accompanied by a copy of a letter addressed to him by you on the 4th Instant, for an advance of money to enable him to make the payments on account of the Conveyance of Emigrants referred to in that letter, have authorised the issue of a sum of eight thousand pounds to the Agent for that purpose; and my Lords therefore request that the Governor of New S. Wales may be apprized of such advance, and that he may be instructed forthwith to cause the amount of it to be repaid from the Emigration Fund of the Colony into the Military Chest on the Station.

Advance to
colonial agent
for purposes of
immigration.

I am, &c.,
A. Y. SPEARMAN.

LORD GLENELG TO SIR RICHARD BOURKE.

(Despatch No. 287, per ship Charles Kerr.)

Sir, Downing Street, 7th April, 1837.

7 April.

I have received your Despatch No. 93 of the 1st September last, reporting on the claim of Mr. William Macrae to a Grant of Land.

Despatch
acknowledged.

You will have the goodness to inform Mr. Macrae that, on the explanation now before me, I do not consider that he possesses any claim to the Land, and therefore that I must decline to authorise its being granted to him.

Refusal of
land grant for
W. Macrae.

I have, &c.,
GLENELG.

LORD GLENELG TO SIR RICHARD BOURKE.

(Despatch No. 288, per ship Charles Kerr.)

Sir, Downing Street, 8 April, 1837.

8 April.

I have received your Despatch No. 111 of the 10th October last, in which you report that you have detached L. Colonel Snodgrass, the Officer next in Rank to yourself on the New South Wales Command, to take the command of the Troops in Van Diemen's Land on the departure of Colonel Arthur; and I have to convey to you my approval of the arrangements which you adopted on that occasion.

Approval of
transfer of
K. Snodgrass
to Tasmania.

I have, &c.,
GLENELG.

1837.
10 April.

SIR RICHARD BOURKE TO LORD GLENELG.
(Despatch No. 19, per ship Captain Cook.)

My Lord,

Government House, 10 April, 1837.

Report re
sickness on
ship *Lady
Macnaghton*.

I embrace the earliest opportunity afforded since my return from Port Phillip (my intention of visiting which place was notified in a previous Despatch)* to give your Lordship some account of the Emigrants by the "*Lady Macnaghton*" whose distressing case will probably have become known in England before this letter can be received. The "*Lady Macnaghton*" was met and spoke by H.M.S. *Rattlesnake* (in which I was proceeding to P. Phillip) about 200 miles to the Southward of Port Jackson. On receiving an account of the alarming fever which prevailed on board and under which the Surgeon Mr. Hawkins, since dead, was then lying incapable of duty, assistant Surgeon Bowler, R.N., was immediately sent from the *Rattlesnake* to supply his place, and I wrote at the same time to the Colonial Secretary at Sydney, intimating to him that it would probably be necessary to place the *Lady Macnaghton* in Quarantine on her arrival in Port Jackson.

Transfer of
surgeon from
H.M. ship
Rattlesnake.

Condition of
ship from fever.

Mr. Bowler found the vessel in a most deplorable state, as will appear from the letter addressed by him to the Colonial Secretary on arriving at Port Jackson, of which, together with other Medical Reports from the Ship and Quarantine ground, I have the honor to transmit Copies. Ten adults and forty four children died on the passage; and, since arrival, four adults (including the Surgeon Hawkins) and nine children have sunk under the disease. Of all these, a nominal List is transmitted. Assistant Surgeon Bowler has been seriously ill in consequence of the exposure and exertions attending his employment, but I am happy to say that he is now out of danger.

Deaths
from fever.

Condition of
patients in
quarantine.

The few Patients remaining under treatment are reported to be recovering; and, as no new case has occurred for some time, the Passengers and Crew will shortly be admitted to pratique under the sanction of a Medical Board, a Copy of whose Report is transmitted. I propose to hold an enquiry immediately on the liberation of the necessary witnesses from Quarantine with a view to report fully on all the circumstances attending the origin and progress of the malady. The proceedings when completed will be immediately forwarded for your Lordship's information. In the mean time, it is my duty to state, in the hope of the earliest precautions being taken to prevent the recurrence of so serious a calamity, that it is highly probable the Ship will prove to have been too much crowded with Passengers and too full of goods allowed to be shipped for the Broker (as reported in the case of the *Duchess of Northumberland*), and that the evil was

Inquiry
proposed.

Probable
causes of
fever.

* Marginal note.—No. 18, 19 Feby.

augmented from the circumstance of the Surgeon in charge being, as I am informed, wholly unaccustomed to duty on Ship Board. A strong sense of the importance of Experience in such duty in addition to the ordinary medical acquirements has induced me so frequently to recommend the employment on this service of Navy Surgeons in the habit of superintending large bodies of men at Sea. I have to add that the expences attendant upon the treatment and final disposal of the Emigrants by the "Lady Macnaghton" will reach a very heavy amount; but they are amply justified by the paramount considerations of regard to the health of the Colony, and compassion for the sufferings of the Parties under Quarantine. I propose (with your Lordship's approbation) to defray them out of the Funds appropriated to Emigration. Some part of the Expense has been caused by the erection on the Quarantine Ground of wooden Houses for the reception of the Sick. This has been the third case* of sickness on board Ships conveying Emigrants rendering Quarantine necessary, which has occurred within the last five years; and the number of these disasters may thus appear trifling; yet, as the Embarkation of Emigrants for this Colony is likely to be more frequent in future years than heretofore, and as the dread of contagious disease is much felt by the Colonists, I think it will be necessary to propose to the Legislative Council at its next sitting the appropriation of a sum of money for establishing a convenient Lazaret. This measure may, in a course of years, prove the most economical arrangement, as the expence, incurred by temporary expedients resorted to under the hurry and apprehension of the impending case, is usually of large amount.

I have, &c.,

RICHD. BOURKE.

[Enclosures.]

[Copies of these papers are not available.]

SIR RICHARD BOURKE TO LORD GLENELG.

(Despatch No. 20, per ship Captain Cook; acknowledged by lord Glenelg, 24th November, 1837.)

My Lord,

Government House, 11 April, 1837.

11 April.

I was much gratified, on finding by the receipt of Your Lordship's despatch of the 30th November, 1835, No. 82, which reached me in May last, that your Lordship concurred with me in opinion that, by the terms of the order in Council, the proceeds of the Estates formerly granted to the Church and School Corporation are, since the dissolution of that body, applicable to

1837.
10 April.
Necessity for experienced surgeons on immigrant ships.

Expenditure involved.

Proposed appropriation for quarantine establishment.

Appropriation of funds of church and school estates.

* Note 195.

the maintenance and promotion of Religion and to the Education of Youth in the Colony without reference to any particular Church. Your Lordship is also pleased to approve of the appointment of a responsible agent to manage these Estates under the direction of the Executive Government, and to desire that a portion be sold annually for the purposes above mentioned, unless I should see cause, for reasons which are to be communicated, for considering such sales inexpedient.

In recommending to Your Lordship in my Despatch of the 1 Octr., 1833, No. 77, that these Estates should be leased in preference to being sold, I had not overlooked the instructions of Secretaries Sir George Murray and Lord Ripon, to which Your Lordship refers. But, as the financial circumstances of the Colony have very much improved since these Ministers wrote on the subject, and I did not find in their despatches any objection to the principle of leasing land, by the annual income of which the expences of general Education might be in part or wholly defrayed, I thought it would be prudent in the Govt. to avail itself of the means, which the possession of these Estates afforded, to create a permanent fund for so important an object. If the principle be not objected to, the present is a favorable opportunity for introducing the measure. The Revenue of the Colony, including that derived from Crown Lands, has been for the last five years, and will probably for some years to come, be more than sufficient to meet the Expenditure including the Church and School Establishments. Any additional sale of public property is not therefore at present required; and it might happen that, by bringing these Estates into the market to be sold for a specific object, the price of Land generally would be reduced, and the public capital wasted. On the other hand, by reserving these Estates, if only for the present, and by leasing them from time to time as may seem most profitable, they may hereafter be sold, if required, at a greatly increased price. If, however, the period at which it may become necessary to charge them with the support of the Church and School Establishment be distant, the Rents, which they will then produce, may be adequate to the supply of one, if not of both, of these sources of Expenditure; and it seems to me to be the duty of the Government of a New State to embrace the earliest opportunity for making a permanent provision for the general Education of the people. Upon this view of the case, I would not recommend the Sale.

If Your Lordship should however consider the reservation of Land for specific purposes to be inconvenient and the instruction for the sale of a portion of the Estates under consideration

1837.
11 April.

Management for
of estates.

Proposal for
lease in
preference to
sale of estates.

be renewed, it is probable they will be wholly disposed of in six or seven years. The amount, which they will produce within that time, may reach to £120,000 and the expence of Churches and Schools in the Colony may be estimated for the same period at about £30,000 a year. Hitherto these Estates have produced an annual income, which has been paid into the Colonial Treasury. For the last three years, it has reached (including the proceeds of Stock sold) to about £4,000 a year, and the amount of Rent will, under proper management, considerably encrease. I may here observe that the offering Crown Lands to be rented for terms of years will be, to a certain class in this community and to Persons coming out to Settle with small capitals, a very great advantage. Their money, insufficient perhaps for the purchase of both Land and Stock, will be laid out in the purchase of the latter only; and, upon a rented Farm, they may at the Expiration of a few years have acquired the means of purchasing Land.

1837.
11 April.

Possibilities
of sale of
estates.

Past annual
income from
estates.

Advantages
of leasing
crown lands.

I annex a Memorandum from the Agent for these Estates, in which he recommends their being leased in preference to being sold. He states the probable rent roll at nine or ten thousand pounds a year. He has, however, based his calculation upon the rate at which Crown Lands have been sold during the years 1834 and 1835. This rate of purchase will doubtless encrease; and, on the expiration of a few years, the rents of 450,000 acres (a large proportion of which is good land) must amount to a much more considerable sum than the Agent calculates. I add some other documents shewing the receipt and expenditure of the Estates from the time at which they came under the management of this Government to the 31 December last, and of what they now consist.

Memo. by
agent re lease
of estates.

Statements
re estates.

Having, in pursuance of the intention announced in my former Despatches, taken the most favorable opportunities for disposing by public sale of the Flocks and Herds, which the Corporation had placed on the Estates, I have the honor to add a Statement of the amount obtained by the sale in the last month, which has nearly cleared the Lands. They will thus be shortly ready either for Sale or Lease as Your Lordship shall please to determine. An early intimation of Your Lordship's wishes is desirable as, if the Lands are to be sold, the sooner they are disposed of the better, in order that the expense of management may cease.

Sale of
live stock.

I have, &c.,

RICHD. BOURKE.

[Enclosures.]

[Copies of these statements will be found in a volume in series VII.]

1837.
12 April.

LORD GLENELG TO SIR RICHARD BOURKE.
(Despatch No. 289, per ship Charles Kerr.)

Sir, Downing Street, 12 April, 1837.

Despatch
acknowledged.

I have received your dispatch No. 107 of the 1st October last, submitting a Memorial which has been addressed to you by Mr. John Bell of Van Diemen's Land, claiming compensation for the loss of certain Lands in New South Wales which had been assigned to him by Sir T. Brisbane, but which was resumed by your Predecessor in consequence of the non-fulfilment of the conditions of the Grant; and I have the honour to acquaint you, in answer, that a perusal of the papers which you have laid before me on this case, has satisfied me that Mr. Bell possessed no valid claim to the Land in question.

Approval of
decision *re*
claims of
J. Bell.

I therefore approve and confirm your decision.

I have, &c.,
GLENELG.

LORD GLENELG TO SIR RICHARD BOURKE.
(Despatch No. 290, per ship Charles Kerr.)

13 April.

Sir, Downing Street, 13 April, 1837.

Despatch
acknowledged.

I have received your dispatch No. 99 of the 13 September last, notifying the death of Mr. Hely, late principal Superintendent of Convicts, and stating that you had placed Mr. Brennan provisionally in that office on full Salary.

Salary for
R. Brennan.

In my dispatch No. 266 of the 16th of Feby., I informed you of the arrangements which I had made for filling up the office of Principal Superintendent of Convicts. As the gentleman, who has been appointed to succeed Mr. Hely will, according to the existing regulations, be entitled to half Salary from the time of his embarkation, I regret my inability to sanction the payment of full Salary to Mr. Brennan for the whole period from the death of Mr. Hely until the arrival of Captain Maclean, but under all the circumstances of the case, I will not object to allow Mr. Brennan the benefit of whatever portion of the Salary may remain otherwise unappropriated.

I have, &c.,
GLENELG.

LORD GLENELG TO SIR RICHARD BOURKE.
(Despatch No. 291, per ship Charles Kerr.)

14 April.

Sir, Downing Street, 14 April, 1837.

Despatch
acknowledged.

I have received your dispatch No. 94 of the 2nd of September last, forwarding a Memorial from certain Emigrants who have arrived at New South Wales since the year 1830, with your observations on the matters of complaint detailed in it.

I have already in my dispatch of the 23 Ultimo communicated to you my sentiments in regard to the allegations contained in this Memorial; and it is, therefore, only necessary for me to state my conviction that the explanations, which you have afforded to me, and which you will be doubtless prepared to afford to the Memorialists, will satisfy them that their complaints as far as they are remediable by the Executive Government have received full attention and will be effectually redressed.

1837.
14 April.
Approval of explanations re memorial from immigrants.

At the same time I am bound to observe that the complaints in question do not, in general, appear to be of a nature to admit of any relief without injustice to the Colonial Society at large.

I have, &c.,
GLENELG.

LORD GLENELG TO SIR RICHARD BOURKE.
(Despatch No. 292, per ship Charles Kerr.)

Sir, Downing Street, 15th April, 1837.

15 April.

I have received your Despatch No. 91 of the 15th August last, recommending for sanction the proposal of the Legislative Council of New South Wales to repay to the Revd. Dr. Lang the sum of one hundred and sixty Pounds expended by him in procuring Passages to the Colony for certain Ministers of the Church of Scotland.

Approval of payment of passages for clergy.

In answer, I have to acquaint you that the Lords Commissioners of the Treasury have agreed to the proposal and that I have, accordingly, instructed the Colonial Agent to issue that sum to Dr. Lang out of the Colonial Funds in his hands.

I have, &c.,
GLENELG.

LORD GLENELG TO SIR RICHARD BOURKE.
(Despatch No. 293, per ship Charles Kerr.)

Sir, Downing Street, 15 April, 1837.

I have the honour to acquaint you that the Reverend Charles Loyal, having produced satisfactory testimonials signed by the Reverend L. B. Barber acting in the capacity of Vicar General in England to the Reverend Dr. Polding, as to his fitness to fill the office of Minister in the Roman Catholic Church in New South Wales, I have authorized the issue to him of the usual allowance of £150 for his outfit and passage.

Advance of passage money to Revd. C. Loyal.

I have, &c.,
GLENELG.

1837.
17 April.

LORD GLENELG TO SIR RICHARD BOURKE.
(Despatch No. 294, per ship Charles Kerr.)

Sir,

Downing Street, 17 April, 1837.

Allowances for
passage money
to clergy.

I transmit to you, herewith, a copy of a letter from the Reverend James Allan, Presbyterian Minister, who lately proceeded to New South Wales in the Emigrant ship "Adam Lodge," on the subject of his allowance for outfit and passage. I also enclose, open for your perusal, the reply which has been addressed by my direction to Mr. Allan's communication.

A deduction, equal to that to which Mr. Allan was subjected to, has also been made in the allowance granted for outfit and passage to Mr. Hetherington, who embarked in the "John Barry," and the same reason which induced me finally to grant to Mr. Allan his full allowance applies to the case of Mr. Hetherington. I have therefore to request that you will cause £20, being the difference between £130 to £150, to be paid to him accordingly.

I have, &c.,

GLENELG.

[Enclosure.]

REV. JAMES ALLAN TO SIR GEORGE GREY.

Sir,

Londonderry, 22nd March, 1837.

Payment for
provisions
by Revd.
J. Allan.

At it appears that no Instructions have been sent to the owners of the "Adam Lodge" to furnish me in provisions free of expense, though I understand that to be implied in my appointment, I have arranged with them to pay for the same, if that is not intended to be done by Government. But as it is inconvenient for me to advance the money, I request you to pay them the usual allowance and to arrange with the Government of New South Wales to deduct the same in moderate instalments from my Salary as one of the Clergymen of the Colony.

I have, &c.,

JAMES ALLAN.

LORD GLENELG TO SIR RICHARD BOURKE.
(Despatch No. 295, per ship Charles Kerr.)

Sir,

Downing Street, 18 April, 1837.

18 April.
Advance to
colonial agent.

The Lords Commissioners of the Treasury having apprised me that they have authorised the Issue to Mr. Barnard for the Service of the Agency for the Government of New South Wales of the sum of Two thousand nine hundred and seventy six pounds, I beg to inform you of that Issue, in order that measures be taken by you for causing the repayment of that Sum into the Military Chest at New South Wales without delay.

I have, &c.,

GLENELG.

LORD GLENELG TO SIR RICHARD BOURKE.
(Despatch No. 296, per ship Charles Kerr.)

1837.
19 April.

Sir, Downing Street, 19th April, 1837.

I have received your dispatch No. 95 of the 9th of September last reporting the measures which you had taken for giving effect to the instructions contained in my despatch of the 26th of February, 1836, for arranging the Judicial Department of your Government.

Despatch acknowledged.

On considering the statements contained in your present dispatch, I am confirmed in the opinion that Mr. Kinchela is entitled to any Public employment for which he may not be disqualified by his peculiar infirmity.

Claims of J. Kinchela for employment.

In the event of no such vacancy presenting itself before the return of Sir Francis Forbes, I think that Mr. Kinchela has a strong claim for some temporary provision from the Public, which I will not fail to recommend to the Lords Commissioners of the Treasury.

The appointment of a Judge in equity is one of those questions which it appears to me fit to refer to the decision of the Local Legislature, as it shall be constituted under the Act which it is designed if possible to pass in the present session of Parliament.

Proposed judge in equity.

Admitting that the extraordinary rapidity, with which the wealth and population of New South Wales are expanding, may call for some encrease in the legal establishment of the Colony, and may render any arrangement which could be devised inapplicable to the state of affairs after the lapse of a very short time, I must refer it to you yourself to determine in the first instance whether the Public Interest would be better promoted by the nomination of some person to the office of Solicitor General, or by continuing the system sanctioned in consequence of the recommendation of Mr. Burton in 1833.

Problems *re* legal department.

I take this opportunity of stating that I have received an application from Mr. Therry, soliciting the appointment of Solicitor General in the event of that office being again filled up. You will have the goodness to acquaint Mr. Therry that his application has been received. Should it eventually be decided to revive the appointment, I shall, when I am called to consider the claims of various candidates, advert to the recommendation of that gentleman which was conveyed by your dispatch marked "Separate" of the 12th of April last. But, as I wish to enter on that consideration unfettered by any previous engagement or understanding, I cannot make any further observations on the subject.

Application by R. Therry for appointment as solicitor-general.

I have, &c.,
GLENELG.

LORD GLENELG TO SIR RICHARD BOURKE.

(Despatch No. 297, per ship Charles Kerr; acknowledged by Sir Richard Bourke, 25th November, 1837.)

Sir, Downing Street, 20th April, 1837.

I have the honor to transmit to you the copy of a letter which I have received from Mrs. Gray, complaining of the irregular payment of the Allowance granted to her by her Husband, who holds an appointment under your Government; and I have to request that you will cause her letter to be shewn to Mr. Gray, in order that he may be aware of the distress occasioned to Mrs. Gray by the non payment of her allowance as it becomes due.

I have, &c.,
GLENELG.

[Enclosure.]

MRS. GRAY TO LORD GLENELG.

No. 4 King Edward Street,
Wapping, 6 April, 1837.

My Lord,

I humbly beg your Lordship's pardon for thus intruding; but, in consequence of having received an annuity of three pounds per month from my husband, Mr. John Gray, who holds a lucrative situation in Sydney, N. S. Wales, the same being paid thro' the Colonial Treasury, and my last receipt being as far back as Septr., 1835, I think it very strange that my payment should be kept so far back. I have applied to Mr. Barnard, the Agent, and the answer is that he has received no notice in any form, since the 30th Augt. last, at which time I received nine pounds then leaving one twelvemonth due to me. My case is a very hard one, as I am entirely dependent upon the above Salary, my health not allowing me to add anything to it. I therefore humbly beg your Lordship will cause enquiries to be made in the affair and let me know the result.

I have, &c.,
ISABELLA GRAY.

LORD GLENELG TO SIR RICHARD BOURKE.

(Despatch No. 298, per ship Charles Kerr.)

Sir, Downing Street, 21 April, 1837.

I have received a letter, dated Bombay the 27th of June last, from a Gentleman named J. B. Mayo, in which he applies for a Grant of Land in New South Wales, or for permission to purchase a Grant on credit, to enable him to introduce into the Colony the Culture of Cotton, Coffee and other Tropical produce.

You will have the goodness to inform Mr. Mayo that, although I am fully sensible of the importance to New South Wales of the successful accomplishment of the objects he has in view, I do not feel myself at liberty to sanction any relaxation in his favor of the existing Land Regulations, to the strict observance of which His Majesty's Government are pledged.

1837.
20 April.

Transmission
of letter from
I. Gray.

Non-payment
of allowance
to wife by
J. Gray.

21 April.

Request for
concessions
re land by
J. B. Mayo.

Refusal
of request.

I leave it to you to consider whether any other facilities should be given to Mr. Mayo in furtherance of his views; but I must remark that no encouragement should be given to him inconsistent with the general Rules observed with regard to other Settlers.

1837.
21 April.

Encouragement
for introduction
of tropical
products.

Mr. Mayo has requested that the answer to his application should be directed to the care of Captain Foster Fyans, the Commandant at Moreton Bay.

I have, &c.,
GLENELG.

LORD GLENELG TO SIR RICHARD BOURKE.
(Despatch No. 299, per ship Charles Kerr.)

Sir, Downing Street, 22 April, 1837. 22 April.

I have received your Despatch No. 87 of the 10th August last, in which you have brought under my notice the claim of Lieutt. Colonel Snodgrass to remuneration for certain extra services rendered by that officer to the Government of New South Wales.

Claim by
K. Snodgrass
for civil
services.

Having referred for the consideration of the Lords Commissioners of the Treasury Colonel Snodgrass' Memorial together with your despatch, I enclose, for your information and guidance, a copy of the answer which has been received from their Lordships.

I have, &c.,
GLENELG.

[Enclosure.]

MR. A. Y. SPEARMAN TO UNDER SECRETARY STEPHEN.

Sir, Treasury Chambers, 19th April, 1837.

Having laid before the Lords Commissioners of the Treasury your letter of the 31st Ult., enclosing copy of a despatch from the Governor of New South Wales, with a Memorial from Lieut. Col. Snodgrass praying for remuneration for services performed in that Colony unconnected with the direct line of his duty as a Military officer, I have it in command to acquaint you, for the information of Lord Glenelg, that it appears to my Lords, after duly considering these papers, that the mode of remunerating Lt. Col. Snodgrass for any extra services he may have rendered while holding the appointment of Brigade Major at New South Wales, which has been suggested by Sir R. Bourke, vizt., by a remission in the Purchase money in Land, would be objectionable, as virtually charging upon the Land Fund the remuneration for services not immediately connected with that Branch of the Colonial Administration.

Objections to
remission in
purchase money
on land for
K. Snodgrass.

Should the Governor and Council of New South Wales be of opinion that Colonel Snodgrass is entitled to special remuneration for any duties not properly attaching to his appointment as Brigade Major on such a station as New South Wales, which he may have been called upon by the Colonial Government to perform, my Lords

1837.
22 April.
Decision
deferred
re claims.

would be prepared to leave any specific proposition for that purpose under consideration; but their Lordships must also remark, with further reference to the suggestions in the despatch, that, as Col. Snodgrass will probably have already received the allowances of Fuel and Light assigned for an officer of his Rank, there would not seem to be any ground for an additional issue to him in respect of this allowance.

I am, &c.,
A. Y. SPEARMAN.

LORD GLENELG TO SIR RICHARD BOURKE.
(Despatch No. 300, per ship Charles Kerr.)

24 April.
Approval of
increase of
capital for bank
of Australasia.

Sir,

Downing Street, 24 April, 1837.

With reference to former correspondence* on the subject of the establishment of the Australian Bank, I have the honour to acquaint you that I have received a communication from the Board of Treasury, intimating that the Directors of that Bank, having applied to the Lords Commissioners, in pursuance of a provision to that effect in their Charter of Incorporation, for permission to encrease their subscribed capital by a sum of £200,000, and the Lords of the Committee of Privy Council for Trade having reported that they see no objection to the extension of the Capital solicited by the Directors, their Lordships have signified their assent to the encrease in such manner and subject to such conditions as the Charter in that respect specifies.

I have, &c.,
GLENELG.

SIR RICHARD BOURKE TO LORD GLENELG.

(Despatch No. 21, per ship Ellen; acknowledged by lord Glenelg. 31st October, 1837.)

My Lord,

Government House, 24 April, 1837.

Progress in
erection of
lunatic asylum.

The Lunatic Asylum,† which has been some time in progress under the authority conveyed by Your Lordship's Despatch of 3 August, 1835, No. 31, in answer to mine of 13 January of the same year, is now rapidly approaching completion; and, as it will not be possible to obtain in the Colony Persons well qualified for its superintendence, I am induced to request that a married couple may be engaged and sent out from England as Keeper and Matron. The Asylum will in all probability be ready for occupation at the earliest period at which the Persons engaged can arrive in the Colony; and, as the new Establishment is most urgently required, it is desirable that no delay should take place in making the appointment. The Building is adapted for reception of sixty Patients, requiring separate cells; and the Keeper's

Request for
appointment
of keeper and
matron.

* Note 199.

† Note 172.

House is sufficiently large to accommodate others, including such as it may be thought proper to admit wholly or in part at the public expence.

1837.
24 April.

The Salaries of the Keeper and Matron will under existing arrangements be a part of the Medical Expenditure of the Colony, and as such payable from the British Treasury. It will therefore be for your Lordship to determine the amount. As wages are very high at present in the Colony, it will be necessary that the sum allowed should be liberal to prevent the Parties from becoming discontented and induced to leave their employment for more profitable occupation.

Salaries for
keeper and
matron.

The cost of the Building I have already informed Your Lordship will be defrayed from the Colonial Funds, as, although at present applicable to objects connected with Convict Expenditure, it is adapted to outlive the arrangements that now throw so large a proportion of the Expences of the Colony upon the Mother Country.

Expenditure
on asylum.

I have, &c.,

RICHD. BOURKE.

SIR RICHARD BOURKE TO LORD GLENELG.

(Despatch No. 22, per ship Fortune; acknowledged by lord Glenelg. 29th September, 1837.)

My Lord,

Government House, 28 April, 1837.

25 April.

I have been requested by Mr. Batman, who is already known to Your Lordship as one of the first occupants of the Country recently located at Port Phillip to transmit for your Lordship's consideration the accompanying Memorial in which he applied for a grant of Land adjoining the Township of Melbourne.

Transmission
of memorial
from
J. Batman *re*
land grant at
Melbourne.

The Memorial was preceded by a similar application to the local Government, which I found it impossible to accede to consistently with the view which has been taken by myself and the Executive Council (and reported to Your Lordship in my Despatch of the 12 Nov. last No. 120) of the claims of the Port Phillip Settlers.

For the present Mr. Batman has been informed that, although no Title can be conferred upon him and he is to abstain from erecting any additional Buildings or enclosures, he is at liberty to continue his occupation of his House and Garden* until further notice.

I have, &c.,

RICHD. BOURKE.

[Enclosure.]

[A copy of this memorial will be found in a volume in series III.]

1837.
29 April.

LORD GLENELG TO SIR RICHARD BOURKE.
(Despatch No. 301, per ship Charles Kerr.)

Sir, Downing Street, 29th April, 1837.

Despatch
acknowledged.

I have received your despatch No. 105 of the 20th of September last, conveying a recommendation in favor of an application made by the Australian Gas Company for permission to send out in Convict Ships, free of freight, the machinery, etc., necessary for the establishment of their operations. I have also received an application to the same effect from the agent of the Company in this Country, to which I regret that I have felt compelled to decline acceding.

Refusal of
request from
Australian gas
company.

I fully concur in the opinion which you have expressed as to the good policy of encouraging private Bodies to originate measures of Public improvement; but at the same time such an indulgence, as is now sought, could not be granted without creating a charge on the Revenues of this Country. I had already been obliged to refuse a similar application proceeding from a company established in Van Diemen's Land.

I have, &c.,
GLENELG.

LORD GLENELG TO SIR RICHARD BOURKE.
(Despatch No. 303, per ship Charles Kerr.)

Sir, Downing Street, 29th April, 1837.

In reference to my despatches of the 17th and 18th of February last, respecting the contract for the "John Barry" and the appointment of Mr. Thomson to be surgeon Superintendent, I have to apprise you that the ship is reported to have sailed from Dundee on the 25th of March.

Sailing of ship
John Barry;

and of ship
Adam Lodge.

The "Adam Lodge," under the superintendence of Mr. Osborne, sailed with Emigrants from Londonderry about the same time.

The Charter Party of the latter Vessel will be delivered to you by Mr. Osborne, by whom the agreement was made.

Payment for
freight.

The Colonial Agent has been authorised to pay Mr. Osborne's Bill for £3,568 in favor of Messrs. Lodge, Pritchard and Co., the owners of the "Adam Lodge."

I have, &c.,
GLENELG.

LORD GLENELG TO SIR RICHARD BOURKE.
(Despatch No. 304, per ship Charles Kerr.)

Sir, Downing Street, 29th April, 1837.

Correspondence
with
E. Macarthur.

With reference to my despatch of the 29th of March last, No. 281, transmitting to you copies of correspondence which had taken place between my Under Secretary and Major McArthur

and Dr. Lang, I have the honor to enclose for your information copies of two other letters, which have passed on the same subject between my Under Secretary and Major McArthur.

1837.
29 April.

I have, &c.,
GLENELG.

[Enclosure No. 1.]

MAJOR MACARTHUR TO SIR GEORGE GREY.

Sir, London, 4 April, 1837.

In thanking you for your communication* of 29 Ult., resp. the Foreign Emigrants I wish to send to N. S. Wales, permit me to state that it wd. render Ld. Glenelg's arrangement as to 6 families, to which his Ldship. has reduced the number, quite satisfactory if he wd. sanction the substitution of 6 families of English or Scotch Peasants for the 6 Families of Foreigners included in the original number; and if he wd. be pleased also to extend the period within which they are to arrive in the Colony to June, 1838.

Request for approval of British peasants as immigrants.

I have, &c.,
E. MCARTHUR.

[Enclosure No. 2.]

SIR GEORGE GREY TO MAJOR MACARTHUR.

Sir, Downing Street, 7 April, 1837.

I am directed by Ld. Glenelg to acknowledge yr. letter of the 4th Inst.. and to convey to you in reply his Lordship's ready acquiescence in yr. request to be allowed to substitute six families of English or Scotch Peasants for six families of Foreigners included in the original number intended to be engaged by you.

Approval of British peasants as immigrants.

I am, however, to inform you, with reference to your request for an extension of the period within which the Emigrants are to arrive in the Colony, that Ld. Glenelg is unwilling to interfere further than is absolutely necessary with an arrangement, which has been made between the Governor of N. S. Wales and Individual Settlers in the Colony; and that he thinks it wd. be inexpedient to interpose his authority to vary the terms of any such arrangement in respect of time without the concurrence of Sir R. Bourke.

Refusal to grant extension of time for introduction of immigrants.

His Lordship, however, has no reason to doubt the willingness of the Governor to give a fair consideration to any statement which may be addressed to him by such Settlers, in explanation of any delay which may take place in the introduction of Emigrants beyond the period originally contemplated and which can be satisfactorily accounted for.

I am, &c.,
GEO. GREY.

LORD GLENELG TO SIR RICHARD BOURKE.

(Despatch No. 305, per ship Charles Kerr.)

Sir, Downing Street, 29 April, 1837.

In reference to my despatch of the 23d of March last, containing an explanation of the arrangements which I had felt it my duty to recommend with a view to the more systematic and efficient promotion of Emigration to the Australian Colonies, I

* Note 201.

1837.
29 April.

Appointment of
T. F. Elliot as
agent-general
for
immigration.

have the honor to inform you that the appointment, which I then had in contemplation, has since been made, and that I have nominated to the Office of Agent General for Emigration, Mr. Thomas Frederic Elliot, the Gentleman who filled the situation of Secretary to the Emigration Commission in 1831. I have already, in the despatch above referred to, acquainted you with the nature of the Financial Statements, which at the commencement of every year I should wish to receive from you with respect to Emigration.

Half-yearly
statistics to be
transmitted.

I would further request that, for the guidance of the agent in this country, and for the satisfaction of Parties who may contemplate emigration to New South Wales, you will forward to me, on the 1st of January and the 1st of June in each year, Returns of the rates of Wages in the Colony, of average Prices, and of the demand for labor as far as it can be ascertained, in the form which was sent to you in my despatch of the 28th of July, 1836.

The punctual transmission of this information may be of essential service to the encouragement of Emigration as well as valuable in regulating its extent and direction. I have, &c.,

GLENELG.

SIR RICHARD BOURKE TO LORD GLENELG.

(Despatch No. 23, per ship *Fortune*; acknowledged by lord Glenelg, 23rd September, 1837.)

My Lord,

Government House, 29 April, 1837.

Transmission
of memorial
from
W. H. Hovell.

The accompanying Memorial, which I have been requested to transmit for your Lordship's consideration, relates to a claim which has before been submitted by the Memorialist, Mr. Hovell, to H.M.'s Government. In answer to his former application,* Lord Stanley expressed himself in a Despatch, dated 20 July, 1833, in the following terms:—

Previous
decision *re*
claims of
W. H. Hovell.

“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. 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 it will be in Your power to confer upon him some small appointment.”

Reasons for
renewal of
claims.

Mr. Hovell now renews his application on the strength of the additional evidence, which he conceives to be afforded of the

* Note 202.

value of his services by the occupation and flourishing prospects of the country adjoining Port Phillip, to which the Expedition of himself and Mr. Hume was directed.

1837.
29 April.

Your Lordship will probably consider Lord Stanley's decision as placing a final negative upon the claim advanced to additional land without purchase. But as Mr. Hovell's pursuits have not been consistent with his obtaining or I believe desiring the public employment, by which Lord Stanley conceived his services might be appropriately rewarded, I am induced to propose the remission on the part of the Government of the debt long owing for services of convicts in clearing land, the employment of which by Mr. Hovell is alluded to in his Memorial as forming General Darling's objection to his receiving a further grant. This debt amounts without interest to £324 8s. I cannot admit Mr. Hovell's right to this Indulgence; but under the circumstances your Lordship will possibly not object to authorise it on condition that it be received by Mr. Hovell in full satisfaction of all claims whatever on the Government.

Proposed
remission of
government
debt due by
W. H. Hovell.

I have, &c.,

RICHD. BOURKE.

[Enclosure.]

[A copy of this memorial is not available.]

LORD GLENELG TO SIR RICHARD BOURKE.
(Despatch No. 302. per ship Charles Kerr.)

Sir,

Downing Street, 30th April, 1837.

30 April.

I have received your Despatch No. 104 of the 18th September last, in which you submitted the application of the Members of the Newcastle Mechanics' Institute for assistance from the Public Funds of the Colony towards the maintenance of that Institution.

Application
from
Newcastle
mechanics'
institute.

Having referred the question for the favorable consideration of the Lords Commissioners of the Treasury, I enclose, for your information and guidance, a copy of the answer which has been received from that Board.

I have, &c.,

GLENELG.

[Enclosure.]

MR. A. Y. SPEARMAN TO UNDER SECRETARY STEPHEN.

Sir,

Treasury Chambers, 24 April, 1837.

Having laid before the Lords Commrs. of His Majesty's Treasury your letter of the 10th Instant, transmitting copy of a despatch from Sir Richard Bourke dated Sydney, New South Wales, the 28th of September last, enclosing a Memorial from the Members of a "Mechanics' Institute, Library, and Museum." which has been formed at Newcastle, praying that they may receive from the Colonial Treasury the same assistance as that which has been

Letter
acknowledged.

1837.
30 April.

Objections to
annual grant
to Newcastle
mechanics'
institute.

granted to a similar Institution in Sydney, I have it in command to acquaint you for the information of Lord Glenelg that, altho' my Lords concur in opinion with his Lordship that in the peculiar state of Society in New South Wales it is desirable to encourage the establishment of Institutions likely to produce beneficial effects upon the morals of the people, and might be prepared to assent to a proposition for granting with this view a determinate sum for any specific object and in aid of Private Contributions, Their Lordships conceive that considerable objection would attach to any extension of the species of annual grant prayed for by the Members of the Institute at New Castle, and which, if accorded in this case, would necessarily lead to the imposition of other annual burthens of the same description on the Colonial Resources.

I am, &c.,
A. Y. SPEARMAN.

LORD GLENELG TO SIR RICHARD BOURKE.
(Despatch No. 306, per ship Charles Kerr.)

Sir, Downing Street, 30 April, 1837.

I have been requested by "The Prison Discipline Society" to forward to you the enclosed List of Questions, relating to the condition of the Convicts in New South Wales, to which that Society are desirous of obtaining answers. I am aware that much of the information required is to be found in the Reports which you, as well as your Predecessors, have made to this Department at various times; and I, therefore, do not wish to give you the trouble of returning *detailed* answers to these questions, excepting where you may be able to supply more recent information.

I have, &c.,
GLENELG.

[Enclosure.]

[A copy of this paper* is not available.]

LORD GLENELG TO SIR RICHARD BOURKE.
(Despatch No. 307, per ship Charles Kerr; acknowledged by Sir Richard Bourke, 4th November, 1837.)

Sir, Downing Street, 30th April, 1837.

I have received your dispatches of the numbers and dates noticed in the margin,† transmitting your address at the meeting of the Legislative Council in the month of June last, Abstracts of the Revenue and Expenditure for the past year, and the appropriation act for the year 1837, together with various Financial statements shewing the ways and means of the Colony, from whence the proposed expenditure is to be defrayed.

* Note 203.

† *Marginal note.*—No. 60, 10 June, 1836; No. 82, 25 July, 1836; No. 85, 7th August, 1836.

Queries *re*
condition of
convicts.

Dispatches
acknowledged
re finance.

I have read with great satisfaction the statements which those dispatches contain, as shewing the steady progress and advancement of the Colony.

1837.
30 April.

I have thought it right to refer your last dispatch No. 85 for the consideration of the Lords Commissioners of the Treasury, and I therefore defer for the present signifying to you His Majesty's Pleasure upon the Appropriation Act.

Reference of
despatch to
treasury.

In the meantime, however, I have the pleasure to convey to you my approbation of the measures which you have adopted for giving effect to the arrangements sanctioned by His Majesty's Government for making more ample provision for the erection of Churches and Chapels and the maintenance of Ministers of Religion in New South Wales, and which are further carried into effect in the Act No. 3, passed by the Legislative Council on the 29th of July, 1836, transmitted with your dispatch No. 106 of the 5th October, 1836.

Approval of
grants for
religious
purposes.

There are, however, two points of details which appear to me to require some amendment.

I perceive, in the Estimate which you submitted to the Council, the provision made for the salaries of the Presbyterian Ministers is less than that granted to the Churches of England and of Rome, the amount being limited to £100 per annum in the case of the former, while the latter receive £150. I can perceive no reasonable ground for such a distinction, and I trust that you will find no difficulty in inducing the Legislative Council to encrease the vote to the Presbyterian Ministers by placing them on the same footing with those of the other denominations, and that such encrease may take effect from the date of the original vote.

Salaries of
Presbyterian
ministers.

The next point, to which I would advert, is the amount of the Stipend to be granted to a Minister. It is obviously of the greatest importance that a sufficient inducement should be offered to Clergymen of Competent attainments and of unimpeachable character to undertake the charge of Colonial Churches, and I fear that the limited amount of the Salary, which will be secured to Clergymen under this act from the Colonial Treasury, will discourage many who might otherwise have been willing to proceed to New South Wales; I have already been assured on very sufficient authority that this cause has created a great difficulty in obtaining the services of properly qualified Clergymen of the Church of England. I would therefore suggest that the scale of Salary* fixed by the present Act should be reconsidered with a view to obviate a failure of the main object of this arrangement, owing to the inadequacy of the remuneration offered.

Proposal for
increase of
stipends for
clergy.

* Note 204.

1837.
30 April.
—
Proportion
of free seats
reserved in
churches.

By the 9th section of the act, it is provided that the proportion of free seats in each Church shall amount to no less "than one sixth part of the whole sittings." In your dispatch of the 30th of September, 1833, you proposed that one fourth of the Seats in each Church should be reserved for that purpose. Keeping in view the paramount importance of diffusing religious instruction as widely as possible among all classes of the community, I am of opinion that the proportion of accommodation to be reserved for the poorer members of each Congregation is too restricted, and that it would have been better to have adhered to the original proposition of one fourth. As however many persons, though unable to pay at a high rate for accommodation, might be able and willing to contribute to the limited extent of their means, in order to secure fixed seats in the Church, I would suggest that, of the sittings not absolutely free, a certain number should be set apart at a low rent. It might be left to the Trustees of the Respective Churches to fix the number of sittings to be reserved for that purpose, and which of course would be regulated by the disposition shewn by the Congregation to avail themselves of such an arrangement, provided that effectual precaution is taken against the exclusion of any class of the Inhabitants from a due share of that accommodation which it is the object of His Majesty's Government to provide for them.

In other respects, this Act appears to be free from objection.

I have, &c.,
GLENELG.

LORD GLENELG TO SIR RICHARD BOURKE.
(Despatch No. 30S, per ship Charles Kerr.)

1 May.

Sir,

Downing Street, 1st May, 1837.

Requisition
for dredging
apparatus,
diving bells,
etc.

A communication has been received at this Department from Mr. Barnard, the Agent General for New South Wales, enclosing a copy of a letter from Mr. Macleay bearing date the 23rd of August, 1836, with a Memorandum, prepared by the Commanding Royal Engineer, of Dredging Apparatus, Diving Bells, etca., required for the purpose of clearing Sydney Cove, and for the construction of a projected Circular Wharf, which articles it was requested might be provided and sent out as expeditiously as possible.

Estimate of
cost of
articles.

By an Estimate which the Agent has obtained from the Board of Admiralty, it appears that the cost of those articles would amount to Four thousand, Four hundred Pounds. Having received no report from you on the subject, I have had no means of forming an opinion as to the expediency of this outlay, beyond

the very general conclusion that, as it has apparently been sanctioned by you, there would seem no reason to doubt the propriety of it. Under all the circumstances of the case, and in order to obviate the delay and the probable expence connected with the delay of awaiting the result of a reference to the Colony in the present instance, I have been induced to recommend to the Lords Commissioners of the Treasury to sanction this expenditure. I cannot, however, help pointing out to you the inconvenience arising from this manner of conducting the Public Service, which has been felt on other occasions besides the present; and I must request that you will transmit a Report to this Department on every Requisition which may in future be made by your Authority to the Agent.

1837.
1 May.

Expenditure approved.

Reports required with requisitions.

I have, &c.,
GLENELG.

SIR RICHARD BOURKE TO LORD GLENELG.

(Despatch No. 25, per ship Fortune; acknowledged by lord Glenelg, 14th November, 1837.)

My Lord,

Government House, 2nd May, 1837.

2 May.

At the earnest request of Mr. A. E. Hayes, I have the honor to forward a Memorial which he has addressed to Your Lordship, praying reconsideration of a claim to a grant of Land which was refused by Lord Visct. Goderich in reply to a Memorial on the same subject, forwarded with my Despatch of the 6 January, 1832. At that time I did not state, as I now can by discovery of former correspondence in the Col. Secy.'s office, that Mr. Hayes was correct in his assertion that he applied for a grant on the 6 October, 1830, and that he received no answer until the new Regulations were about to be promulgated. I annex a copy of Mr. Hayes' application, upon which the words no answer* are minuted in the handwriting of the then Colonial Secretary; but it is of course impossible for me to give any opinion as to the reason for refraining to notice his letter at that time. Mr. Hayes made further application, dated respectively the 27th June and 12 October, 1831, referring to and pressing attention to his letter of November, 1830. These I find to have been answered, the former by referring him to Regulations about to be established, the latter by stating that he could only receive Land under the new Rules then published.

Transmission of memorial from A. E. Hayes re land grant.

Details re first application for land grant.

Subsequent applications.

I have, &c.,
RICHD. BOURKE.

[Enclosure No. 1.]

[A copy of the memorial is not available.]

* Note 295.

1837.
2 May.

[Enclosure No. 2.]

MR. A. E. HAYES TO COLONIAL SECRETARY MACLEAY.

Sir, Charlotte Place, Sydney, 6 November, 1830.

Application for
land grant.

I hereby beg leave to make application for a grant of land in this Territory agreeably to the Regulations of His Majesty's Home Government on that head, as respects Emigrants, and have to add, in furtherance of my request, that, during the six years and upwards that I have resided in New South Wales, not a single acre has been received by me as a grant from the Crown.

I remain, &c.,

ATTWELL EDWIN HAYES,
Proprietor of "the Australian."

LORD GLENELG TO SIR RICHARD BOURKE.

(Despatch No. 310, per ship Charles Kerr.)

3 May.

Sir, Downing Street, 3d May, 1837.

Arrangements
re repairs to
public
buildings.

With reference to my dispatch of the 27th March, No. 280, I have the honour to transmit to you for your information and guidance the enclosed copy of a further letter from the Secretary to the Treasury on the subject of the proposed arrangements for regulating the expenditure on Repairs to the Public Buildings in the charge of the Ordnance Officers in the Colony under your Government.

I have, &c.,

GLENELG.

[Enclosure No. 1.]

MR. A. Y. SPEARMAN TO UNDER SECRETARY STEPHEN.

Sir, Treasury Chambers, 29 April, 1837.

I am commanded by the Lords Commrs. of H.M. Treasury to transmit herewith for the further information of Lord Glenelg, with reference to your letter of the 30th Ultó., copy of a letter addressed by my Lords to the Board of Ordnance for repairing and maintaining Buildings for the service of the Convict Dept. in the Australian Settlements.

I am, &c.,

A. Y. SPEARMAN.

[Enclosure No. 2.]

MR. A. Y. SPEARMAN TO SECRETARY OF ORDNANCE.

Sir, Treasury Chambers, 29 April, 1837.

I am commanded by the Lords Commrs. of H.M. Treasury to transmit herewith, with reference and in reply to yr. letter of the 22d Feb. last and to the previous communications relating to the expenditure for repairing and maintaining Buildings for the service of the Convict Dept. in the Australian Settlements, Copies of a letter addressed by my Lords' directions to Mr. Stephen on the 22d Ultó., and of his reply dated the 30th Ultó. on the same subject, and I am to request that, in laying the same before the M. General and Board of Ordnance, you will move them to give such directions to their officers as may be requisite, in order to give effect to the

arrangements relating to the ordinary and incidental repairs of the Buildings occupied for the service of the Convict and Medical Department therein specified.

1837.
3 May.

Arrangements
re repairs to
public
buildings.

With reference also to these arrangements, and to the due regulation of this service after the Current year, I am further to request that you will move the M. Genl. and Board to direct their officers to prepare an annual return and estimate of the Buildings now in question, shewing

The description and use of each building; The state of repair; The ordinary repairs that will probably be indispensable in the course of the succeeding year; and The estimated expense to be incurred in each case.

These Returns and estimates shd. be annually made up and transmitted from each Colony at such period as may ensure their reaching this country in the month of Jany. or Feby. in each year, altho' it is at the same time obviously necessary that they shd. convey information up to the latest period that may be consistent with this object. My Lords also conceive it to be advisable that the estimates for future years shd. on all occasions be submitted for the Governor's opinion and Approval.

I am, &c.,

A. Y. SPEARMAN.

LORD GLENELG TO SIR RICHARD BOURKE.

(Despatch No. 311, per ship Charles Kerr; acknowledged by Sir Richard Bourke, 7th November, 1837.)

Sir, Downing Street, 4th May, 1837.

4 May.

I have received your despatch No. 96 of the 10th of September last on the subject of the Female Factory at Parramatta.

Despatch
acknowledged.

I fully approve of the alterations, which you have made in the management of that Institution, and I have accordingly recommended to the Lords Commissioners of the Treasury to sanction the increased expense consequent on the present change of system.

Approval of
reforms in
female
factory.

I am aware of the difficulties, which must be experienced in maintaining such an Institution in an efficient state of discipline and order; but it is of the utmost importance that no effort should be left untried to render it as effective as possible for the end, for which it is designed. I have already in my despatch of the 10th of December last intimated to you my intention, in the event of a vacancy in the office of Matron, of appointing some person qualified by recent experience in this country for this responsible charge; and, altho' I have no reason to doubt that you have made a careful selection so far as the means existed in the Colony of procuring the services of a suitable Matron, I think it of great consequence that whoever is at the head of the Institution should be well acquainted with the recent

Importance
of office of
matron.

1837.

4 May.

Appointment
of matron from
England.

improvements which have been effected in the treatment and discipline of Female Prisoners in this country. I hope, therefore, soon to find a person here willing to undertake the charge of the Factory at Paramatta, who will probably be accompanied by a competent Schoolmistress. I trust that you will have no difficulty in finding some other suitable employment for the two persons whom you have placed in charge of the Factory.

I have, &c.,

GLENELG.

LORD GLENELG TO SIR RICHARD BOURKE.
(Despatch No. 313, per ship Charles Kerr.)

9 May.

Sir,

Downing Street, 9th May, 1837.

Financial
statements
acknowledged.

I have the honor to acknowledge the receipt of your Despatch No. 109 of the 8th October last, transmitting a Quarterly Return of the Revenue and Expenditure of your Government with subsidiary abstracts for the Quarter ending 30th June last, and requesting Instructions as to the form of Return, which it will be most advisable to continue to forward.

Returns
required.

I have referred your Despatch and its enclosures to the Lords Commissioners of the Treasury, and I now transmit to you, for your information and guidance, the copy of a letter which has been addressed to this Department by their Lordships' desire, specifying the nature of the Quarterly Returns which you are required in future to send home, and pointing out the manner in which the Annual Abstract of the Colonial Revenue and Expenditure may be simplified.

I am, &c.,

GLENELG.

[Enclosure.]

[A copy of this letter* is not available.]

LORD GLENELG TO SIR RICHARD BOURKE.
(Despatch No. 314, per Mr. P. Grant; acknowledged by
Sir Richard Bourke, 10th October, 1837.)

10 May.

Sir,

Downing Street, 10 May, 1837.

Appointment
of P. Grant
as police
magistrate.

As I perceive that a vacancy has occurred in the office of Police Magistrate at Maitland, although I have not yet received any official notification of that circumstance, I have appointed Mr. Patrick Grant to succeed to the office. Mr. Grant will shortly embark for the Colony, and will receive the same rate of Salary which was enjoyed by his Predecessor.

I have, &c.,

GLENELG.

LORD GLENELG TO SIR RICHARD BOURKE.
(A circular despatch per ship Charles Kerr.)

1837.
10 May.

Sir, Downing Street, 10th May, 1837.

My attention has been called to the 65th Section of the Mutiny Act, which attaches a penalty of not less than £5, nor more than £20, to the fraudulent purchase or possession of Soldiers' Necessaries, Equipments, etc., which minimum penalty is considered far too high to be imposed upon the lower classes of Society in the Colonies.

Penalty for fraudulent purchase of military equipment.

An addition to this Clause has in consequence been made in the Mutiny Bill of the present year, empowering the local Legislature, on the recommendation of the Acting Governor of any such Colony, to lower the amount of such penalty to such a Sum as they shall consider adapted to the ability and pecuniary means of all classes residing in the Colony.

Power to reduce minimum penalty.

Previously to laying such a recommendation before the Legislature of the Colony under your Government, you will take especial care that it meet with the concurrence of the Officer in the local Command of the Forces.

You will further observe that, in conformity with the 79th section, the Mutiny Act of the past year is superseded by that of the present year, so soon as it shall have been promulgated in General Orders.

Promulgation of new mutiny act.

The Secretary at War will desire the Officers Commanding the Forces in the Colonies to communicate their General Orders under this head to the Civil authorities for their information and guidance.

I have, &c.,

GLENELG.

LORD GLENELG TO SIR RICHARD BOURKE.

(Despatch No. 315, per ship Charles Kerr: acknowledged by Sir George Gipps, 19th November, 1839.)

Sir, Downing Street, 11th May, 1837.

11 May.

In consequence of an application which has been addressed to my Department by the French Consul General, I have to request that you will inform me whether a Frenchman of the name of Dubost, who is stated to have been residing at No. 7 Colonade, Bridge Street in Sydney, is still living.

Report required re Dubost.

I have further to request that, in the event of his death, you will transmit to me a Certificate of his burial and any particulars which you may be able to collect respecting his property.

I have, &c.,

GLENELG.

1837.
14 May.

SIR RICHARD BOURKE TO LORD GLENELG.

(Despatch No. 28, per ship *Fortune*; acknowledged by Lord Glenelg, 24th October, 1837.)

My Lord,

Government House, 14 May, 1837.

Transmission
of letter from
J. Bingle.

I regret exceedingly to have to trouble Your Lordship with another communication, which I have been requested to forward by Mr. John Bingle, connected with the complaint* he before preferred in consequence of the omission of his name in the Commission of the Peace, issued in January, 1836, and since approved by His Majesty. The correspondence arising out of complaints of this nature must be a tax on your Lordship's attention, no less oppressive than on mine; and I am often obliged to pass by without notice many false and malignant assertions contained in them merely from the waste of time that would be occupied in narrating details that are often prolix and complicated in proportion to their insignificance. On the present occasion therefore, I shall confine myself, unless Your Lordship shall call for further information, to the main features only of Mr. Bingle's present application.

Correspondence
due to
insignificant
complaints.

Claims due
to verdict in
libel action.

Mr. Bingle seeks to place his appeal in a new light by bringing under notice an action, prosecuted by him in the Supreme Court against the Editor of the Australian Newspaper, and in which he recovered damages on account of an imaginary letter from this Government to himself and another person, declaring the supposed grounds of their removal from the Commission. Assuming these to be the real and only grounds of such removal, he arraigns, on the faith of the verdict in this case, the justice of that act, and appeals to your Lordship for "such redress as will have the effect of completely removing the stigma," which he says it has been calculated to affix to his character.

It can hardly be necessary for me to expose the absurdity of this view of the case. No Government can be bound by the forms of expression used by a Newspaper Editor in vindicating its measures, nor can it follow that, because some of the language thus employed may be open to a charge of libel, many of its most important parts may not be substantially true.

Reasons for
exclusion of
J. Bingle from
commission
of peace.

To demonstrate, however, Mr. Bingle's unfitness for the Commission of the Peace, it was unnecessary to regard any of the matters brought into question at the trial to which he refers. The conduct, which exposed him to the rebuke of Lord Stanley in the year 1833, might of itself have been regarded as sufficient, and his want of integrity has been signally displayed in a transaction, on account of which he has been recently prosecuted for Cattle Stealing before the Supreme Court. Although acquitted of the Felony, the Jury appended to their verdict a remark that

* Note 206.

the conduct of the Prisoners (another Person was joined in the indictment) "has been marked with great impropriety." I derive this remark of the Jury from the Judge's notes; and, from all I can learn of the Evidence, it more than justified this imputation and would have rendered his removal from the Commission, had he continued in it to this day, an imperative duty. The transactions exposed by the prosecution came to my knowledge at the time I was preparing to transmit Mr. Bingle's Memorial, soon after its receipt; and, as his appeal to Your Lordship was made to turn so much upon his supposed high character and reputation, I thought it better to await the result before writing this Despatch, and Mr. Bingle was informed accordingly.

I have, &c.,

RICHD. BOURKE.

[Enclosure.]

[A copy of this letter is not available.]

LORD GLENELG TO SIR RICHARD BOURKE.

(Despatch No. 317, per ship Charles Kerr; acknowledged by Sir George Gipps, 13th April, 1839.)

Sir, Downing Street, 15th May, 1837.

15 May.

I transmit to you a copy of a letter and its enclosures from Miss Mary and Miss Jane McCallum, respecting some property which they state to have been left in New South Wales by their deceased Grandfather. I have to request that you will send me any information on this subject, which you may be able to procure. The parties have been informed that it will rest with themselves to establish their right to any such property.

Claim to effects
in deceased
estate.

I have, &c.,

GLENELG.

N.B.—The enclosures in the Misses McCallum's Letter being sent in Original, it is requested that they may be returned.

SIR RICHARD BOURKE TO LORD GLENELG.

(Despatch No. 29, per ship Fortune: acknowledged by lord Glenelg, 22nd October, 1837.)

My Lord, Government House, 15 May, 1837.

On receiving in February last Your Lordship's Despatch of the 1 Sept., 1836, requesting that I would call on Mr. John Lamb for a copy of a letter of complaint he had addressed to Your Lordship, and furnish such Report as I might think necessary, I immediately acted on this Instruction. But Mr. Lamb

Request for
letter of
complaint from
J. Lamb.

1837.
15 May.

having thought it necessary first to see the whole of Your Lordship's Despatch, a demand, which, although I did not refuse it, could not be complied with until my return from Port Phillip. I have only lately received from him the Documents which I now transmit, containing, in addition to his former complaint, a letter to the Colonial Secretary and a further communication to Your Lordship on the same subject.

I have anticipated an answer to some parts of Mr. Lamb's statements in my Despatch of the 14th inst., No. 28, transmitting a communication from Mr. John Bingle. To what I have there stated as to the irrelevancy to any question between this Government and these gentlemen of the alleged newspaper libel, and the proceedings connected therewith, it may become necessary that I should here take some notice of that part of Mr. Lamb's Letter, in which he attributes the authorship of the Letter complained of to my Private Secretary. On this point, I am able to assure Your Lordship, if such assurance be thought worth requiring, that my private Secy. had not anything to do, directly or indirectly, with the article in question. I can not see how any responsibility could be properly attached to me for the act of any other Servant of this Government in such a case; but, as it has suited Mr. Lamb's purpose to mention Mr. Therry with such a design, it may not be amiss to add that Mr. Lamb's account of the late Mr. Stephen's avowal of authorship "for the purpose of defending an action of libel" is a partial representation calculated to deceive, Mr. Stephen having, through his Counsel at the trial, and through the public press, adopted every means in his power to explain and asseverate that his avowal of authorship was not a mere legal form, but a fact on which his personal veracity was pledged; and of this Mr. Lamb could not possibly have been ignorant. I can scarcely bring myself to waste Your Lordship's time by saying that I have no reason to doubt the truth of Mr. Stephen's assertion, or by noticing the circumstance on which Mr. Lamb professes to ground his continued incredulity, namely the appointment of Mr. Carr, Mr. Stephen's Partner, as Commissioner of the Court of Claims. Even were this circumstance truly stated, it seems hard to believe that the judgment of any gentleman of common intelligence could be so led away by anger as honestly to adopt the inference he professes to derive from it. But your Lordship will be yet more surprised to find the falsehood of the premises equal to the malignity of the inference. Mr. Carr was not, as Mr. Lamb alleges, Mr. Stephen's Partner at the time when he was appointed to the office alluded to. On the contrary, when he afterwards became such Partner, one of the conditions of the connexion was the

Transmission of
papers from
J. Lamb.

Allegations
re authorship
of libellous
letter.

resignation of the Commissionership, which, it was conceived, would interfere with his rendering to Mr. Stephen the assistance his business required, and was actually resigned accordingly.

1837.
15 May.

After such a specimen as this of the manner in which Mr. Lamb can venture to misrepresent the acts of my Government in a deliberate address to your Lordship, it will not be difficult to imagine in what way similar feelings will vent themselves in the Columns of an anonymous Press, and in the Petty Scandal of Society, particularly when, from the constitution of this Colony, there is no means by which, as in the Parliament of England, explanations may be given, and false assertions met by the accredited agents of the Executive. It is a necessary consequence of this state of things that whatever is published in a Newspaper friendly to the Government should be supposed to speak the language of the Government, which thus often becomes, in the Estimation of its enemies, embroiled in quarrels with which it has in truth no concern or participation. From causes such as these, it becomes a hopeless task to attempt to put your Lordship in possession of all the facts necessary to elucidate such complaints, as I have transmitted with this Despatch and that of the 14th inst. I can only add that, if Your Lordship desire further information as to any points upon which I have thought it unnecessary to touch, I shall be at all times happy to afford it to the best of my ability.

Misrepresentations re acts of government.

In conclusion, it may not be irrelevant to the subject, if I enclose a Copy of a Letter addressed to the Colonial Secretary of this Govern't. by Mr. Lamb, on being made acquainted with the contents of your Lordship's Despatch* replying to his former representation; from which it will be seen that even Your Lordship's station and character are no protection from the insult this gentleman so freely bestows on all who have the misfortune to differ from him in opinion.

Transmission of letter from J. Lamb.

I have, &c.,

RICH'D. BOURKE.

[Enclosure.]

MR. J. LAMB TO COLONIAL SECRETARY THOMSON.

Sir,

Sydney, 16th Feby., 1837.

Yesterday I received your communication of the 10th inst. addressed to me by Command of His Excellency the Governor, in which you transcribe part of a Despatch His Excellency had received from the Secretary of State for the Colonies, in answer to the Letter from myself and other Magistrates complaining of the omission of our names in the New Commission of the Peace.

Letter acknowledged.

In the conscientious discharge of my duty as a Magistrate having incurred the displeasure of the late Mr. William Watt and of Mr. Roger Therry, I was not surprised at the course adopted towards me by Sir Richard Bourke (especially as the Journal under

1837.
15 May.

Surprise at
decision of
lord Glenelg.

Watt's management intimated, in terms not to be misunderstood, that some of the Magistrates, who sat on the Bench when charges were preferred against him by Mr. Mudie, would be removed from the Commission of the Peace); but I am surprised by the decision of my Lord Glenelg, and can only attribute it to misrepresentations injurious to my character having been forwarded to His Lordship.

Alleged want
of courtesy to
magistrates.

I will not attempt to follow the Right Honble. the Secretary of State through a train of reasoning, which serves to establish a distinction without a difference. But I will assure His Lordship that, had I been aware that the extensive powers vested in the Magistracy of New South Wales exposed them to treatment such as a large portion of them recently experienced, treatment devoid of the courtesy which would have been observed towards Magistrates in Great Britain, I should have declined the honor of the Office when offered to me by Sir Ralph Darling.

Opinion *re*
dismissal of
magistrates;

My Lord Glenelg declares that dismissal in a certain form conveys no reproach; but is merely an intimation to the party dismissed "that a sufficient number of persons have been found with qualifications for the Magistracy superior to his own." I apprehend that few Gentlemen will coincide with his Lordship's opinion; and some may suppose that His Lordship meant to insult those, who, deeming themselves aggrieved, had appealed to him for redress.

and revision of
commission
of peace.

The concluding paragraph of the Despatch penned for my information implies that His Lordship considered the "Revision of the Magistracy" of this Colony had been the act of the Executive Government. Had such been the case, there would be less reason to apprehend that passion or prejudice caused the erasure of my name; but it is well known that the "Revision" was effected by Sir Richard Bourke alone, and I presume that it will not be contended that he personally is the Executive Government.

I have, &c.

JOHN LAMB.

[Additional enclosures.]

[Copies of the remaining enclosures are not available.]

SIR RICHARD BOURKE TO LORD GLENELG.

(Despatch No. 30, per ship Fortune; acknowledged by lord Glenelg, 24th October, 1837.)

16 May.

My Lord,

Government House, 16 May, 1837.

Death of
A. Bell.

I have great regret in acquainting Your Lordship with the death of Mr. Archibald Bell, an ancient and estimable Colonist and a Member of the Legislative Council. I have named Sir John Jamieson of Regentville to fill Mr. Bell's vacancy under the provisions of the 9 Geo. 4, c. 83, s. 31, and respectfully request that Your Lordship will lay this nomination before the King for H.M.'s gracious allowance and that your Lordship will be pleased to recommend it.

Nomination of
Sir J. Jamison
as member of
council.

In my Despatch of the 23rd Septr., 1832, marked Separate, I had the honor to propose to the Earl of Ripon, then Secretary of State for the Colonies, the appointment of Sir John Jamison to

fill the vacancy occasioned by the malady of Mr. John Macarthur. Lord Ripon in his reply, dated the 27th March, 1833, No. 155, stated that it was then impossible to introduce Sir John Jamison into the Council, as His Majesty deemed it advisable that the officer next in command of the Troops in the Colony should always be a Member, and I was accordingly directed to appoint the officer so circumstanced. But His Lordship added that, whenever a vacancy occurred among the unofficial Members of the Council, there would be no objection to the appointment of Sir John Jamison, if I continued favorably inclined towards him. Considering Sir John Jamison to be fully qualified by station and property to possess an intimate acquaintance with the interests of the Colony, in which he has so long resided, and to the agricultural concerns of which he has in particular devoted his attention, and, being moreover aware that he regards many of the most important matters of Colonial policy in the same enlightened point of view as H.M.'s Govt., I do not hesitate to recommend his appointment to the vacant Seat.

I have, &c.,

RICHD. BOURKE.

1837.
16 May.

Previous nomination of Sir J. Jamison.

Conditional approval of appointment.

SIR RICHARD BOURKE TO LORD GLENELG.

(Despatch No. 31, per ship Fortune.)

My Lord,

Government House, 17 May, 1837.

17 May.

In my Letter of yesterday's date No. 30, I had the honor to intimate to Your Lordship the provisional nomination of Sir John Jamison to a Seat in the Legislative Council of this Colony vacant by the death of Mr. Archibald Bell. I have now to transmit a Letter addressed to Your Lordship by Captn. P. P. King of the Royal Navy objecting to this nomination and claiming the seat for himself.

Protest by P. P. King *re* nomination of Sir J. Jamison.

The statement of Captn. King that he was named a Member of the Council in H.M.'s Warrant* of the 30 Janry., 1829, and that a seat was to be kept open for him for a year is quite correct. It is also correctly stated by him that the seat was first occupied by Mr. J. T. Campbell, but Captn. King has not added that, on the death of Mr. Campbell within the year, the seat was given to Captn. King's Brother-in-Law, Mr. Hannibal Macarthur, who still holds it. In recommending to Lord Ripon in my Despatch of the 23rd Septr., 1832, marked "Separate," the appointment of Sir John Jamison to the seat then vacant, I did not fail to notice the circumstances of Captn. King's case; but I objected then, as I do now, to the nomination of two such near Relatives as Captn. King and Mr. Hannibal Macarthur to a close Council of fourteen Members, of whom seven alone are unofficial.

Statements *re* claim of P. P. King to seat in council.

* Note 209.

1837.
17 May.

Statements *re*
claim of
P. P. King
to seat in
council.

Captn. King states that, in virtue of his first appointment, he remained entitled to a seat in the first vacancy which might occur on his return to the Colony; but this pretension is totally at variance with the terms of the Royal Warrant, which limit his claim to one year from the date of the arrival of that instrument in N. S. Wales. Any claim as of right seems therefore totally out of the question. I have shewn one important ground upon which his appointment would be highly inexpedient, if not altogether inadmissible. There are other reasons which it may be right to bring briefly under your Lordship's notice.

Party feelings
in legislative
council.

In my Separate Despatch of the 25th Decr., 1833, in representing to the Secretary of State the materials of which the Legislative Council is composed, I observed that the selection of the unofficial Members had been made almost entirely from one of the two parties into which this Colony is so conspicuously divided, and, the official Members being also for the most part inclined to the same side, the evil of legislating for a whole community by means of a Council composed almost entirely of one Party existed in full force in N. S. Wales. Your Lordship is probably aware that the Parties to which I allude are termed Emigrants and Emancipists; although the respective bodies are not confined to that exact description of Persons; for in connexion with the latter are found many free Emigrants of great wealth and intelligence and generally those who advocate liberal principles; of this class Sir John Jamison is one, whilst Captn. King is well known to be opposed to those measures both in Church and State, which it has been the aim of my administration under the guidance of H.M.'s Government to introduce. Such being the case, Your Lordship will not be surprised to find that I have used the discretion, which the Act of Parliament allows, to nominate to the Council subject to H.M.'s approbation a Person of whose political principles I have a favorable opinion, and have endeavored rather to balance the contending interests at the Board than to add to the disproportion which already exists there.

Political
principles of
Sir J. Jamison
and P. P. King.

Reasons for
objections to
P. P. King.

Injury alleged
by P. P. King
on non-
appointment.

It will not be expected that I should make any lengthened remarks upon the injury which Captn. King alleges he has sustained by the choice, I have made, of another than himself to fill the vacant seat. If strong expressions of feeling or the chance of misrepresentation were allowed to weigh against sound reason and policy in the choice to be exercised by Government, between contending interests, the result could not fail to be mischievous in the extreme. But I would hope that in the case under consideration the character of Captn. King remains untouched, and in truth I have no reason, beyond what may be found in the

excited statements of his letter, for supposing that his character has been at all called in question.

1837.
17 May.

I am happy at having this opportunity of acknowledging the professional services wh. Captn. King has at various times very willingly rendered to this Government, which, as he correctly states, I intimated it was my intention to bring under your Lordship's notice. This fact might serve to convince him that, notwithstanding a wide difference in opinion upon general or Colonial Politics, Captn. King's character does not stand low in my estimation. But this favorable opinion does not appear to me to offer any good reason for placing him in a position where I apprehend he would soon be arrayed against my administration, and according to the best of my judgment against the true interests of the Colony.

Testimony to
services of
P. P. King.

I have only to add that, since I received Captn. King's Letter for transmission to your Lordship, I caused him to be unofficially informed of my application in favor of Sir John Jamison in 1832 and of Lord Ripon's reply.

I have, &c.,

RICHD. BOURKE.

[Enclosure.]

[A copy of this letter is not available.]

SIR RICHARD BOURKE TO LORD GLENELG.

(Despatch No. 32, per ship Fortune: acknowledged by lord Glenelg, 17th November, 1837.)

My Lord,

Government House, 18th May, 1837.

18 May.

I have had occasion to inform Your Lordship that it was found necessary to place the Assistant Surgeon of H.M.'s Ship Rattlesnake, Dr. Bowler, on board the Emigrant Ship Lady McNaghton when these vessels met at Sea near Cape Howe as narrated in my Despatch of the 10th ulto., No. 19.

Transfer of
J. W. Bowler
to ship *Lady
Macnaghton.*

Dr. Bowler being thus placed on board the infected vessel had to pass through the Quarantine, and, being employed by the Colonial Government in his professional capacity, rendered the most valuable assistance to the Sick by his medical skill and laborious attention. Whilst in Quarantine, he caught the infectious fever and suffered heavily from its attack. He is now safe, and returned to his duty on board the Rattlesnake. The Executive Council of the Colony, who, during my absence at Port Phillip and since my return, superintended with great care and gave all the necessary orders for regulating the Quarantine under the provisions of the Colonial Law, being well acquainted with Dr. Bowler's exertions and merit, have in the minute, of which I have the honor to transmit a Copy, earnestly recommended

Services of
J. W. Bowler
in quarantine.

Infection
contracted by
J. W. Bowler.

Reward
proposed for
J. W. Bowler.

1837.
18 May.

Recommendation of
J. W. Bowler
for promotion.

him for a reward. Being satisfied that this recommendation is not more than Dr. Bowler deserves, I respectfully request Your Lordship to bring this Officer's conduct under the notice of the Lords of the Admiralty with the earnest entreaty of the Governor and Ex. Council of N. S. Wales for his promotion to the rank of Surgeon in the R. Navy. I am the more urgent in forwarding this request, as any pecuniary allowance, which can consistently with precedents and the usual rates of remuneration be granted to Dr. Bowler, will fall far short of the remuneration his services merit.

I have, &c.,

RICHD. BOURKE.

[Enclosure.]

EXTRACT from Minute No. 23 dated 11th May, 1837, of the proceedings of the Executive Council.

Thanks to Surgeons employed at the Quarantine Station.

THE Council, having terminated all proceedings, which the Act of Council and a regard for the Public security required them to adopt previously to the release from Quarantine of the Ship Lady Macnaghton and the remainder of the Passengers and crew, have assembled pursuant to adjournment for the purpose of recording the sense, which they entertain of the meritorious services rendered by Assistant Surgeon John William Bowler of His Majesty's Ship Rattlesnake and Assistant Colonial Surgeon James Stuart, while in charge of the victims of the malignant disorder which has raged among the Emigrants on board that Ship.

The extent of remuneration, to which these Gentlemen are entitled, it is not the Province of the Council to determine; they therefore refer this question to His Excellency the Governor, with an expression of their opinion that the Public generosity can scarcely go beyond the merits of these gentlemen in the laborious and hazardous service, upon which they have been engaged; and of their assurance that His Excellency's disposition will accord with that of the Council in awarding them the most ample remuneration, which can becomingly be granted at the Public Expense.

It is not possible however that a pecuniary recompense should alone be adequate to discharge the claims, which the Colony owes to the above mentioned Gentlemen for the zeal and devotion, with which in the discharge of their professional duties they encountered imminent peril of contagion, and afforded to those who were suffering from it the most prompt and efficacious aid; to which, under Providence, the preservation of many lives and the final disappearance of disease are to be attributed; their own lives indeed nearly fell a sacrifice to their humane exertions on behalf of others.

Under such circumstances, the Council beg to express to His Excellency their anxious hope that, consistently with the established practice, such a representation of the services of Assistant Surgeon John William Bowler may be addressed to the Lords Commissioners of His Majesty's Navy, as may induce their Lordships to confer on him a substantial proof of their approbation by promoting him in his profession.

Thanks by
executive
council for
services of
J. W. Bowler
and J. Stuart.

Recommendation of surgeons
for ample
remuneration;

and for
promotion.

And, in the case of assistant Colonial Surgeon James Stuart, they are no less desirous that an early opportunity may present itself of advancing him in the Service to which he is attached.

1837.
18 May.

The Council would not have failed to annex a corresponding recommendation on behalf of Dr. Charles Inches, R.N., who had charge of the Quarantine Station, Spring Cove, had not his present rank in the Navy placed him beyond the reach of benefitting thereby: they nevertheless have satisfaction in repeating the high sense, which they entertain of the value of his services, and of his just claim to be included in any award of pecuniary compensation, which His Excellency may be pleased to extend to the Professional gentlemen employed on this trying occasion.

Recommendation in favour of C. Inches.

A True Extract:—WM. MACPHERSON, Clerk of Councils.

LORD GLENELG TO SIR RICHARD BOURKE.
(Despatch No. 319, per ship Charles Kerr.)

Sir, Downing Street, 19 May, 1837.

19 May.

I have the honor to acknowledge the receipt of your Dispatch No. 97 of the 10th September last, transmitting an Act passed by the Legislative Council of your Government, intituled "An Act to enable the Proprietors of a certain Company carried on in the Town of Sydney in the Colony under the name and form of the Union Assurance Company at Sydney 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."

Approval of Union assurance company's act.

I have laid this Act before The King and His Majesty has been graciously pleased to approve and confirm the same.

I have, &c.,
GLENELG.

LORD GLENELG TO SIR RICHARD BOURKE.
(Despatch marked "Separate," per ship Charles Kerr.)

Sir, Downing Street, 19th May, 1837.

In my dispatch No. 319 of this date, I had the honor to signify to you the King's approval and confirmation of the Act relating to the Union Assurance Company at Sydney.

Before His Majesty's decision was taken on this subject, the Act was referred to the Lords of the Committee of Privy Council for Trade for their consideration.

Reference of Union assurance company's act to privy council.

They have reported that it does not appear from the Memorial what the amount of paid up Capital is, but they presume that you will have taken care that a reasonable amount had been paid up. Their Lordships have also represented that no provision has been made for the enrolment of the names of the Shareholders in the Colony, which their Lordships regard as a proper security to the public there; but that the Act in other respects

Report by committee of privy council.

1837.
19 May.

presents no provisions in any way objectionable, but is on the contrary extremely well drawn up and fair in all its stipulations.

Shareholders to
be enrolled.

On these grounds, the Act has been confirmed; but I have to instruct you to get provisions hereafter made with regard to the enrollment of the Share-holders, and also that, in any future proceeding of the kind, you will accompany the Act with a statement of the amount of subscribed and paid up Capital.

I have, &c.,

GLENELG.

SIR RICHARD BOURKE TO LORD GLENELG.

(Despatch No. 33, per ship Fortune; acknowledged by lord Glenelg, 23rd October, 1837.)

My Lord,

Government House, 19 May, 1837.

Transmission of
memorial from
Reid re quit
rent.

At the request of Dr. Reid, formerly a Surgeon in the Royal Navy, I have the honor to forward a Memorial which he has addressed to Your Lordship, praying that he may be relieved from Quit Rent upon the Land he has received from this Government consisting of two grants of 1,000 acres each, and a third of 560 Acres. He has given correctly the sums payable upon the two former. The Quit-rent on the last, which he has not stated, amounts to £4 13s. 4d. per annum. Dr. Reid has been successful in his Horticultural and grazing pursuits, and is an intelligent and useful Colonist. But I do not see how his present application can be granted without forming a precedent for many others of a similar nature.

I have, &c.,

RICHD. BOURKE.

[Enclosure.]

[*A copy of this memorial is not available.*]

LORD GLENELG TO SIR RICHARD BOURKE.

(Despatch No. 320, per ship Charles Kerr.)

20 May.

Sir,

Downing Street, 20th May, 1837.

Proposed
appointment of
new barrack-
master.

With reference to my former dispatches respecting the proposed arrangements for the employment of Ordnance Establishments in the Australian Colonies, I have now the honor to acquaint you that, in consequence of a Report which has been received from the Officers of Ordnance at Sydney, stating that Major Jackson the Acting Barrack Master is incapable of efficiently performing his duties, His Majesty's Government propose to dispatch to New South Wales an officer of experience and ability to undertake the duties of Barrack Master.

I remain, &c.,

GLENELG.

LORD GLENELG TO SIR RICHARD BOURKE.
(Despatch No. 323. per ship James Pattison.)

1837.
20 May.

Sir, Downing Street, 20 May, 1837.

You have been already apprised of the Departure of the ship "John Barry" with Emigrants from Dundee and of the Adam Lodge from Londonderry. I have now to add that Mr. Galloway has selected a sufficient number of eligible settlers from the Southern Counties of England to fill the ship "Augusta Jessie" of 380 Tons burthen, which vessel has been chartered for their conveyance, and will, it is expected, be ready to receive them at Portsmouth at the end of the first week in June.

Selection of emigrants for ship *Augusta Jessie*.

You will be aware from information, which you will receive from the Surgeons who have proceeded in charge of the John Barry and Adam Lodge, that, for reasons which were urged by them and which appeared to me quite satisfactory, it was judged expedient to substitute for the scale of Bounties in my despatch of the 18th of September last a free passage to all the Emigrants selected by these Gentlemen. A similar plan has been adopted with reference to the *Augusta Jessie*, and will be adhered to for the future in the case of Ships taken up by the Government.

Free passages *vice* bounties for emigrants.

In consequence of the numerous applications which have been received from Parties on the Western Coast of Scotland for assistance to Emigrate to some of the British Colonies, I thought it expedient to entrust Dr. Boyter with authority to select a sufficient number of settlers to fill two Vessels to proceed from the Clyde to Sydney; and, from the reports which have been made by Dr. Boyter of his progress, it seems probable that he will be able to despatch one Vessel about the middle of June, and another in the month of July, with families likely to form a highly respectable and useful class of settlers.

Selection of emigrants by D. Boyter in Scotland.

A copy is enclosed of the instructions under which Dr. Boyter is acting.

I have further to acquaint you that it is intended that another ship should be despatched to New South Wales with Emigrants from Ireland within a short period.

Ship to sail with emigrants from Ireland.

I have, &c.,

GLENELG.

[Enclosure.]

INSTRUCTIONS TO DR. BOYTER.

Sir, Colonial Office, 8 June, 1837.

As you mention that some signs have appeared of a change of resolution in the People who originally expressed a wish to emigrate, it is probable that you will not be able until the departure of the "William Nicholl" to judge with confidence of the number that ed. be sent afterwards. But, as soon as you can form an opinion on the subject, you will be good eno' to report what number of Vessels in all ed. be advantageously filled with Emigrants

Instructions to D. Boyter for selection of emigrants.

1837.
20 May.

Instructions to
D. Boyter for
selection of
emigrants.

from the distressed districts to N. S. Wales and V. D. Land, that is to say filled with Emigrants falling within the description required in those Colonies, and at the same time whose removal wd. be beneficial to themselves and to the place from whence they are taken.

Some wish has been displayed that the assistance cd. be extended to persons, whose age renders it more difficult for them to struggle with their difficulties here; but it is not possible to agree to any relaxation in this respect. On the other hand, there is a strong desire to make the measures for furnishing the Australian Colonies with useful settlers conducive, to the utmost extent to which the two objects are compatible, to the alleviation of the existing distress in the Highlands. While therefore no change can be admitted in the *description* of Persons to be assisted, there wd. not be the same rigor in enforcing a limit on the *numbers*; and I have reason to believe that there wd. be no objection to sanction the necessary steps for removing to Australia the greatest extent of persons that you are likely to be able to report as eligible for the purpose.

I have already mentioned to you that, should you think your proceedings cd. be facilitated by despatching another Superintendent to you, it will be done; And I may also state that shd. yr. experience lead you to think it desirable, the intervention of the Admiralty cd. be obtained in engaging future Vessels. But for this purpose it wd. be very desirable to have the longest notice that can be given; and I shall at any rate hope to hear from you on the different heads of this letter, as soon as possible after the departure of the ship "William Nicholl."

I am, &c.,

T. FRED. ELLIOT.

SIR RICHARD BOURKE TO LORD GLENELG.

(Despatch No. 34, per ship Fortune.)

My Lord,

Government House, 20 May, 1837.

Transmission of
letter from
T. C. Harington.

Having communicated to Mr. T. C. Harington Your Lordship's reply to his application to succeed to the office of Colonial Secretary to this Government, I have the honor to enclose another letter which he has thereupon requested me to transmit to Your Lordship.

I have, &c.,

RICHD. BOURKE.

[Enclosure.]

MR. T. C. HARINGTON TO LORD GLENELG.

My Lord,

Sydney, New South Wales, 17th May, 1837.

Having received from Sir Richard Bourke a Copy of the Despatch communicating your Lordship's inability, in consequence of Mr. Thomson's previous nomination, to appoint me to succeed Mr. Macleay as Secretary of this Colony, I esteem it a duty to express my deep sense of the flattering and handsome manner, in which your Lordship's decision is conveyed.

Request for
advancement
in public
service.

I trust also I may be allowed to indulge a hope, from my long service and the opinion Your Lordship is pleased to entertain of my conduct and character, that, on any future vacancy occurring in the higher Departments of this Government, my claims for Advancement

may be taken into consideration, both as a gracious reward to be bestowed upon myself, and as an encouragement to others in the Service.

1837.
20 May.

At the same time, my Lord, I feel I should ill do justice either to Your Lordship or to myself, were I to omit to observe that my former letter was written under the impression that Mr. Macleay would be permitted to retain his Situation until voluntarily resigned by himself. I should consider myself unworthy of Your Lordship's good opinion, and it would be a matter of extreme regret to me, could you for a moment suppose that I solicited the Office with a view to succeed to it under any other circumstances.

Motives in making application.

I have, &c..

T. C. HARINGTON.

LORD GLENELG TO SIR RICHARD BOURKE.

(Despatch marked "Separate and Confidential." per ship Charles Kerr: acknowledged by Sir Richard Bourke, 22nd November, 1837.)

Sir,

Downing Street, 26 May, 1837.

26 May.

I have the honor to transmit to you a Copy of a letter, which has been addressed to my Under Secretary by direction of the Secretary of State for the Home Department on the subject of the system of transportation as now carried into effect in the Colonies of New South Wales and Van Diemen's Land, and of the answer which by my direction has been returned to that communication.

Correspondence re system of transportation.

I have to request that you will, at your earliest convenience, inform me of the number of convicts who may be profitably employed on the public Works or Roads in the Colony of New South Wales, and of the means which now exist in the Colony of subjecting any portion of the Convicts to an efficient system of Prison discipline. Being strongly impressed with the evils which appear to me to a certain extent inherent in the system of assignment, I trust that the measures in progress for the increase of free emigration to the Australian Colonies will adequately supply the future demand for labor without continuing a practice which is open to so many objections.

Statements required re convicts.

Objections to system of assignment of convicts.

I request that you will favor me with any suggestions which may occur to you on this subject, with a view to the discontinuance, at the earliest practicable period, of the Assignment of Convicts to individual Settlers, and that you will take such measures as appear to you expedient for inducing the Settlers generally to look for the future to immigration rather than to assignment as the source from which they may obtain the requisite labour for the cultivation of their lands and for other purposes.

Proposal to discontinue assignment.

I have, &c..

GLENELG.

[Enclosure No. 1.]

1837.
26 May.

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

Sir, Whitehall, 15 April, 1837.

I am directed by Lord John Russell to call the attention of Lord Glenelg to the subject of Transportation, as now carried into effect in the Australian Colonies.

It appears to Ld. John Russell that every adult male convict, who shall be transported after a date to be named, shd. be subjected for a certain period to labour on the public Works and Roads of the Colonies; that for each period of Transportation there should be a longer and shorter term of labour on the Public Works; and that the S. of State for the Home Dept., in Communication with the Judges, shd. signify the period of labour on the Public Works to the Colonial Dept.

It also appears to Ld. J. Russell inexpedient that, upon the expiration of this period, the Convict shd. be assigned, the evils arising from that mode of employment, and which must be aggravated by the difference of the humanity, weakness, fear or caprice of different Masters, being very serious and notorious.

It is the wish of Ld. J. Russell to diminish as much as possible the number of Transports sent yearly to the Australian Colonies; and his Ldship, is desirous of concerting with Ld. Glenelg the best manner of disposing in future of such diminished number, with a view of making the punishment of Transportation uniform and formidable to all offenders.

I have, &c.,

S. M. PHILLIPPS.

[Enclosure No. 2.]

SIR GEORGE GREY TO MR. S. M. PHILLIPPS.

Sir, Downing Street, 29 April, 1837.

I am directed by Lord Glenelg, with reference to yr. letter of the 15 Inst., to request that you will state to Lord J. Russell that Ld. Glenelg is disposed entirely to concur in the opinion entertained by his Ldship, of the evils generally arising from the assignment of Convicts in the Australian Colonies, and that he is happy to learn that it is the wish of Ld. J. Russell to diminish as much as possible the number of transports sent yearly to those Colonies. Ld. Glenelg is of opinion that the substitution of an extensive system of free Emigration for transportation as a means of supplying the demand for labour in N. S. Wales and V. D. Land, and especially in the former of those Colonies, is calculated to have a most important and beneficial effect on the state of Society and the future interests of that portion of H.M. Possessions. I am however to request that you will call the attention of Ld. J. Russell to the circumstance that, in the event of the discontinuance of the system of assignment, the expense of maintaining the convict during the whole period of his sentence will have to be defrayed by the Public, and that, if the number of Convicts in either of the Colonies shd. be considerably greater than can be beneficially employed on public works, a heavy expense will be incurred by the Establishment and maintenance of a Penitentiary system there in addition to the expense of Transportation. His Ldship, therefore thinks that, if assignment is altogether to be discontinued, it will be necessary that the number of Convicts to be sent to the Australian Colonies should be limited by the means from time to time existing for their profitable

Proposed
employment of
convicts on
public works
for fixed terms.Objections to
system of
assignment.Proposal to
diminish
number of
transports.Objections to
system of
assignment.Consequences of
discontinuance
of system.

Employment on Public Works, and as he has reason to believe that a comparatively small number of Convicts cd. be so employed at present, it would be necessary to provide some adequate system of punishment in this Country for the far greater portion of those, who wd. under the existing system be transported. Id. G., however, proposed with the concurrence of Id. J. Russell to communicate on this subject with the respective Govrs. of N.S.W. and V.D.L. with a view to obtain further information as to the extent to which the proposed diminution may without delay be carried into effect.

1837.
26 May.

Proposal to
obtain reports
from governors.

I have, &c.,
G. GREY.

LORD GLENELG TO SIR RICHARD BOURKE.

(Despatch No. 324, per ship James Pattison; acknowledged by Sir George Gipps, 30th September, 1838.)

Sir, Downing Street, 31 May, 1837. 31 May.

I have received your Despatch No. 101 of the 15th September last, reporting the measures which you had taken for opening the Country in the vicinity of Port Phillip for Colonization, and for providing for the good order and government of that Settlement; and I have to convey to you my general approval of those measures.

Approval of
measures
adopted *re*
Port Phillip;

Having conferred with the Lords Commissioners of the Treasury with regard to the Establishment of Officers which you had sent down to Port Phillip, I see no reason to disapprove of the appointments which you have made or of the Salaries which you have attached to those appointments. I should, however, wish that the system of granting Rations to the Civil Officers should be discontinued as soon as the settlement shall have been sufficiently established. I must also impress on you the importance of adhering rigidly to the principle of the existing Regulations as to the disposal of Land, and of fixing such a minimum price for its Sale as, in the possible absence of the same degree of competition which exists elsewhere, will afford a security against improvident appropriation of Crown Land at an inadequate price. As this settlement, although within your Government, is at a considerable distance from Sydney, I think it essential that separate accounts should be kept of the Sale of the Crown Lands in the District of Port Phillip, and that the proceeds of such sales should be applied to the improvement of this New Settlement, and especially in the introduction of free Emigrants, who would supply the demand for labour without the use of Convicts. I am, therefore, anxious that you should take measures as soon as possible for directing immigration to this Settlement, as well as to other parts of the Colony, and that you should abstain to the utmost practicable extent from the assignment of Convicts to the Settlers in the Port Phillip District. The objections to the

and of
establishment
of officers.

Instructions
re disposal of
land at Port
Phillip;

and *re* revenue
from land sales.

Immigration to
be encouraged.

1837.
31 May.

Objections to
assignment of
convicts to
settlers at
Port Phillip.

system, which at present prevails in New South Wales with respect to the Assignments of Convicts, would exist in a still greater degree in a New Settlement, where there cannot be the same means of enforcing order and imposing restraint, which are available in an older settlement, while there must be greater facilities of escape, aided by the circumstance to which you have referred of the vicinity of a part of the Port Philip District to the Eastern Boundary of the Colony of South Australia. Nor, at a moment when H.M. Government are preparing to put an end to the system of Assignment in New South Wales, should I consent without the greatest reluctance to its extension, even to a limited degree, to any new settlement. It is also of importance that the recent arrangements with regard to the means of religious Instruction should be extended as soon as possible to the Settlement at Port Philip.

Religious
instruction.

With regard to the Colony of Southern Australia, the publicity which, from the peculiar circumstances in which it had originated has attended the various stages of its formation,* and particularly the fact of its having been constituted under the authority of an Act of Parliament, appeared to render any formal announcement to you on that subject unnecessary. It is, however, important that, in regulating the upset price of Land at Port Philip, you should not exclude from your consideration the price below which land cannot be acquired within the Colony of Southern Australia.

I have, &c.,

GLENELG.

Minimum price
of land at
Port Phillip
and in South
Australia.

SIR RICHARD BOURKE TO LORD GLENELG.

(Despatch No. 37, per ship Maria; acknowledged by lord Glenelg, 27th November, 1837.)

3 June.

My Lord,

Government House, 3 June, 1837.

In the last paragraph of my Despatch of the 17th Ult., No. 31, with which I transmitted a letter from Captn. King, R.N., claiming a seat in the Legislative Council of this Colony, I intimated to Your Lordship that Captn. King had been unofficially informed of the application formerly made on behalf of Sir John Jamison and of its result. This communication has, it seems, caused another Letter to be addressed to Your Lordship by Captain King, which I have the honor by his desire to transmit.

Transmission
of letter from
P. P. King.

Having entered so fully into the circumstances of Captn. King's case in my Despatch above referred to, I should probably have transmitted this letter without comment, did I not desire to assure Your Lordship that what Captn. King is pleased in his

* Note 109.

last letter to term an *explanation* was never intended to be such on my part. I owe to His Majesty's Government alone any explanation of the principles, upon which I exercise the discretion vested in me by law of filling occasional vacancies in the Legislative Council. The Letter of my Private Secretary, to which Captn. King refers, was written solely from motives of personal kindness towards him to communicate a fact, not to offer any apology or explanation whatever. This intention might have been fairly inferred from the concluding paragraph of Mr. Holden's Letter. Nor is it stated in that Letter that I objected in 1832 to Captn. King's having a seat in Council on general grounds *only*. Your Lordship will perceive by perusing the copy that the significant word "only" is an interpolation. I will, however, readily admit to Your Lordship that, in 1832, my principal reason for not recommending Captn. King for the vacant seat was his near family connexion with Mr. Macarthur, though I was not at the time unaware of the injury, which the public service was suffering and might still suffer from the admission of one political party to the almost entire exclusion of the other, and was on that account disposed to favor the pretensions of Sir John Jamison. Subsequent knowledge of Captn. King's opinions upon the important points of Colonial Policy, which I have detailed to Your Lordship in my Despatch of the 17th ultimo, has confirmed my objections to placing him in a Council constituted as this in N. S. Wales now is. I have, &c.,

RICHD. BOURKE.

[Enclosure.]

[A copy of this letter is not available.]

SIR RICHARD BOURKE TO LORD GLENELG.

(Despatch No. 38, per ship Maria; acknowledged by lord Glenelg. 16th November, 1837.)

My Lord,

Government House, 4 June, 1837.

4 June.

I regret to state that the exertions, used by Your Lordship to supply Norfolk Island with a protestant Chaplain qualified for the office, have failed of success. The accompanying documents will shew that, after an unbecoming contention with the Commandant at that Station, the Revd. Thomas Atkins has resigned his employment. His Conduct at the Island, I regret to say, was highly indiscreet and improper, and in his correspondence with this Government he has manifested his total unfitness for any subordinate employment. Mr. Atkins having voluntarily resigned his appointment, and his proceedings having been so manifestly incorrect, I need not trouble Your Lordship with any

1837.
3 June.

Reasons for
letter written
to P. P. King.

Objections to
nomination of
P. P. King as
member of
council.

Resignation of
chaplain at
Norfolk island.

Misconduct of
Revd. T. Atkins.

1837.
4 June.

abstract of the case; but, should a reference to particulars be hereafter required, the accompanying Papers contain as much of the necessary information as can be comprised in a moderate compass. The correspondence of Major Anderson and the Revd. Mr. Atkins with each other and with this Government is very lengthy, and can be furnished at any time, if called for.

Temporary
employment of
Revd. T. Sharpe
at Norfolk
island.

For the present the Bishop of Australia has allowed the Revd. Thomas Sharpe, a Chaplain of the Church of England, to reside at N. Island for the recovery of his health; but, as this Gentleman may be required to return to his district at a short notice, I have again to entreat Your Lordship to provide a Protestant Chaplain for the Island.

I have, &c.,

RICHD. BOURKE.

[Enclosure No. 1.]

REVD. THOMAS ATKINS TO SIR RICHARD BOURKE.

Sir,

Portland Head, 24th April, 1837.

As, during my residence at Norfolk Island, several cases occurred which I conscientiously believed required my interposition; as for the part which I took in regard to those cases, I received insult from Dr. Harnett, and both insult and persecution from Major Anderson; as the general conduct of the Commandant in respect to those particular transactions induced me to solicit his leave to enable me in person to state the case to the Government of New South Wales; as the view which your Excellency has been pleased to take of my part of the case is to me very unsatisfactory, and especially as your Excellency, by asserting that Major Anderson could not have treated me with disrespect, has indirectly though I presume unintentionally charged me with uttering falsehood: as the principles of Government adopted at Norfolk Island appear to me to be diametrically opposed to the professed principles of the Government of New South Wales and more especially to the Principles of the British Government, from which my appointment was received, and as the influence of the Government of Norfolk Island, in my estimation, is calculated to encourage vice and to discountenance virtue; I therefore beg of your Excellency to accept my resignation of a situation which, in my opinion, I cannot hold without degrading the Character of a Briton, of a Christian, and of a Clergyman.

I am, &c.,

THOMAS ATKINS.

[Enclosure No. 2.]

[A] COLONIAL SECRETARY THOMSON TO REVD. THOMAS ATKINS.

Colonial Secretary's Office,

Sydney, 26th April, 1837.

Reverend Sir,

With reference to the written Statement which you personally communicated to the Governor at an interview accorded at your request on the 22nd instant, I am directed to inform you that His Excellency has carefully considered your various representations, and in connection with them has given attention to communications received from the Commandant of Norfolk Island, respecting the two principal topics of your written Statement.

Reply to
statement
made by
Revd. T. Atkins.

namely, the cases of the deceased prisoners Castleton and Pennell, and also respecting a correspondence between yourself and the Commandant arising out of objections made by the latter to compel the Roman Catholic prisoners to attend your preaching. On these subjects, the Governor desires you to be informed of the Conclusions to which he has arrived, and has directed me to add that, if you wish it, in order to enable you more fully to appreciate the reasons which guide him to these conclusions, you are at liberty, on applying at this office, to peruse and take copies of Extracts of any part of the Official Communication from the Commandant on the several matters herein referred to.

The first case, that of Wm. Castleton, who died at Norfolk Island on the 13th December last, having received a punishment of fifty lashes for feigning sickness on the 9th of that month, has been the subject of a minute enquiry before yourself and eight of the Civil and Military officers of the Settlement, who report an unanimous opinion that he died a natural death from an attack of acute dysentery, and that his decease was not accelerated by the corporal punishment inflicted on the 9th December. In this opinion, it appears that you at first coincided, but afterwards on further consideration you withdrew your name and entered a protest against the decision you had before Signed. The Governor has given every consideration to the Contents of this protest, and though he is willing to believe that it was entered from humane and conscientious motives, yet the imprudent and unsupported imputation it Conveys on the discipline of the Settlement and the reflection cast on the conduct of the Members of the Board of Enquiry are matters deserving of His Excellency's Censure. At the time you entered the protest, it does not appear that you had obtained any additional evidence to lead to your change of opinion or to influence the Board; it would therefore have been, after such an investigation as that of the 14th December had been Completed and positive evidence obtained, a grievous injustice to any public officer, if the circumstances you advert to in your protest should have been allowed to keep alive suspicion and outweigh the facts leading to an exculpatory decision.

The Governor has observed that you refer in your Statement to information received from the prisoner Lawrence in Castleton's case a few days before your departure from Norfolk Island. His Excellency will direct the Commandant to inquire into the truth of it, but, as affecting the propriety of your protest, it can be of no avail having been received long after the protest was entered. Upon the manifest impropriety of obliterating your name from the proceedings of the Board, which you obtained from the President for the ostensible purpose of assisting you in forming your protest, His Excellency will offer no Comment.

With regard to the other Case, that of Pennell, Major Anderson has transmitted to the Governor the depositions on oath of the several persons referred to by you as prepared to swear to the circumstances you relate. Their depositions contain, however, some important qualifications of the general Statements, which they made to you upon the same subject, and to their evidence is added a statement of the Dispenser of the Hospital to the effect that the Complaint of the deceased did not assume an acute form until the day of his admission into Hospital. In this case, the Governor cannot help feeling some anxiety lest sufficient means should not have been used to check, in its earlier stage, the disease which

1837.
4 June.

Reply to
statement
re death of
W. Castleton ;

and of Pennell.

1837.

4 June.

Difficulty in
medical
treatment of
convicts.

carried of Pennell; and it is in consequence his intention strongly to urge upon the Commandant and the Surgeon the necessity of the utmost care being exercised in examining all cases presented at the Hospital. At the same time, His Excellency cannot lose sight of the fact that the Surgeon's duty in cases of this nature is in the highest degree difficult and embarrassing, and that a hasty censure on the part of an observer, unacquainted with medical Science, would be most unreasonable. The ready admission of a prisoner's own statements would, experience everywhere shows, lead to almost universal idleness under pretext of illness, while many cases must arise in which the early symptoms of diseases may otherwise elude detection, however great the Skill and care of the examiner. Such cases occur in Hospitals in all parts of the world, even where an ordinary confidence can be placed in the representations of applicants for admission. Among the penal labourers of Norfolk Island the difficulty is far greater.

Regret at
conduct as
chaplain at
Norfolk island.

These considerations lead His Excellency to regret extremely, with every respect to the motives with which he believes you were actuated, that you lent so readily an ear to the loose statements of prisoners, as to use openly, before any enquiry had taken place, expressions that nothing could justify but the clearest proof of the facts. It is reported by Major Anderson that you spoke of one of the men as having been "murdered" and of demanding a warrant against the guilty person. In such a Settlement as Norfolk Island, such conduct on the part of the Chaplain could not but prove highly dangerous, and His Excellency cannot see how it can be justified by the circumstance of the case, however proper it may have been for you to seek investigation and calmly to pursue it to the utmost as long as you continued to feel any doubt respecting the fact.

Criticism of
claims made by
Rev. T. Atkins.

His Excellency regrets to find similar evidence of indiscretion on your part, as well as a total misunderstanding of the nature of your appointment, in the correspondence which took place between yourself and Major Anderson on the Subject of the Roman Catholic prisoners being required to attend your preaching. In one of these letters, dated the 6th of January last, you state as follows:—"from the British and not from the Colonial Government, my appointment was received; to the former therefore and not to the latter, I stand responsible. *That appointment invests me with the whole of the Ecclesiastical Authority of this Settlement.* In my humble opinion therefore, neither you nor the Government of New South Wales have a right to Contract the Boundary of my jurisdiction without an authority from Lord Glenelg; and, until I have evidence that an order to this effect has been received from him, all such attempts will be regarded by me as the exercise of unconstitutional power, and to which I Shall not passively Submit."

On these grounds you claim a right to the arrangement of the religious services of the settlement, the matter in question being the propriety of your requiring an unwilling attendance from Roman Catholics.

Approval of
religious
freedom for
R.C. convicts.

In refusing to allow any other than voluntary attendance upon Protestant Worship by Roman Catholic prisoners, His Excellency is of opinion that the Commandant was fully justified. His Excellency will not enter into any reasons for this opinion, as he understands you have since acquiesced in the objections of the Commandant. But, as it is possible you may Still entertain the impression

1837.
4 June.

Error of
Rev. T. Atkins
re nature of his
appointment.

Authority of
commandant to
be recognised
prior to return
to Norfolk
Island.

Caution
required in
accepting
statements
of convicts.

Inquiries
proposed
re further
complaints.

Acceptance of
resignation of
Rev. T. Atkins.

Opinion *re*
statements
submitted.

conveyed in the letter referred to of your freedom from responsibility to this Government with regard to your proceedings at Norfolk Island. His Excellency thinks it necessary to acquaint you that it will be out of his power to authorize your return there, so long as you remain under this error, which cannot fail to lead to much inconvenience, and possibly, in connexion with the misunderstandings between you and the Civil Officers, and the manner in which the feelings of the prisoners may be engaged in them, to consequences endangering the discipline and security of the settlement. If, therefore, you desire to return to your charge, His Excellency feels it necessary that you should first make some distinct recognition of your responsibility to this Government, and in all Civil matters to the authority of the Commandant, who is the sole judge of such arrangements as require the use of compulsion towards the prisoners, and who would be fully justified in sending you away from the Island should he apprehend any danger from the recurrence of such conduct on your part as has been now brought under notice. His Excellency trusts that, should you return, you will perceive the impropriety of adopting, without previous investigation and corroboration, the complaints of prisoners on the Settlement against those placed over them. Upon any circumstances demanding enquiry, this Government will be most ready at all times to receive your representations, and, anxious as His Excellency feels to award the Strictest justice to all parties, will feel deeply indebted to you for the disclosure of any facts requiring its interference.

With respect to the Complaint Contained in your Statement regarding the Conduct of the Surgeon in not attending the Sick on Shipboard, and the quality of the Flour delivered out as a Ration, His Excellency will direct enquiry by the first opportunity that presents itself for communicating with Norfolk Island. He would also direct enquiry into the case of Dick, whose name is brought forward in your Statement; but, in order to do so with any effect, it will be necessary to give the names of the parties from whom you received your information.

I have, &c.,

E. DEAS THOMSON.

[B] COLONIAL SECRETARY THOMSON TO REV. THOMAS ATKINS.

Colonial Secretary's Office.

Sydney, 29th April, 1837.

Reverend Sir,

I am directed by His Excellency the Governor to inform you, in reply to your letter of the 22nd instant, that your resignation of your appointment as Chaplain at Norfolk Island is accepted. I am at the same time instructed by His Excellency to acquaint you that he has carefully considered the contents of the Statement, which you delivered to him on the 22nd instant and the documents received from Norfolk Island relative to the matters in dispute between you and the Commandant, and had directed a letter to be written to you stating his opinion of the facts as far as the evidence before him extended, and pointing out the particulars as to which he proposed to institute further enquiry.

His Excellency directs me to inform you that, though your resignation by terminating your Connection with this Government renders it unnecessary to correspond with you further upon the Subject, yet he has thought it right that you should see the letter, to which I refer, in order that you may be aware of the opinion he

1837.
4 June.

Evidence
required *re*
general charge.

has formed of the transactions to which it relates, since it will be his duty to lay it before the Secretary of State for the Colonies together with the other papers detailing the transactions in question.

With reference to that part of your letter of resignation, in which you State you Consider the influence of the Government of Norfolk Island Calculated to encourage vice and discountenance virtue, I have the honor to inform you that Sir Richard Bourke will be glad if you will acquaint him with the facts upon which this opinion is founded, in order that His Excellency may form a proper estimate of a charge, which in its present Shape is vague and unsupported.

I have, &c.,

E. DEAS THOMSON.

[Enclosure No. 3.]

REVD. THOMAS ATKINS TO SIR RICHARD BOURKE.

Sir,

Parramatta, 20th May, 1837.

I have received your letter of the 29th ultimo, and in reply beg to say that I have no wish to peruse the despatches of Major Anderson; further it appears to me that, from the position which Your Excellency occupies, Your Excellency is disqualified to form an impartial judgment between Major Anderson and myself; and therefore, though it appeared to be my duty in the first instance to lay the case before Your Excellency, I presumed that Your Excellency would not incur the responsibility to sit to be judge on so important a business. With these impressions, I beg for the present most respectfully to decline entering into particulars; but, when a suitable time arrive, and a satisfactory Inquiry be instituted, I shall be prepared to state the facts upon which my Opinion of the influence of the Government of Norfolk Island is formed.

I remain, &c.,

THOMAS ATKINS.

SIR RICHARD BOURKE TO LORD GLENELG.

(Despatch No. 39, per ship Maria.)

5 June.

My Lord,

Government House, 5 June, 1837.

In continuation of the new arrangements for obtaining Emigrants for this Colony, which I am happy to find, by Your Lordship's Despatch of the 18 September last, that His Majesty's Government is disposed to sanction and carry into effect, I have the honor to acquaint your Lordship that Surgeon Charles Inches, R.N., the Bearer of this Letter, has been engaged, subject to your Lordship's approval, for selecting and bringing out Emigrants from Hampshire and the adjoining Counties; or, if any unforeseen difficulty shall arise in obtaining Emigrants in that quarter, then from Perthshire in Scotland, where Dr. Inches has connexions. He has been furnished with the usual provisional Instructions to be submitted for Your Lordship's confirmation.

Dr. Inches was one of the Surgeons, whose exertions in the treatment of the sick on board the Emigrant vessel "Lady

Refusal to
supply details
re charge.

Appointment
of C. Inches
to select
emigrants.

McNaghton" and at the Quarantine Station called forth the encomium of the Executive Council, transmitted with my Despatch of the 18 May last, No. 32, to which I have now the pleasure to add a further Minute in which I am requested to make favorable mention of Dr. Inches in communicating with His Majesty's Government.

1837.
5 June.

Testimony in favour of C. Inches.

I have, &c.,

RICHD. BOURKE.

[Enclosure.]

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

LORD GLENELG TO SIR RICHARD BOURKE.

(Despatch No. 325, per ship James Pattison; acknowledged by Sir Richard Bourke, 2nd December, 1837.)

Sir, Downing Street, 6 June, 1837.

6 June.

I have the honor to transmit to you the copy of a letter and its enclosures, which has been addressed to my Department by desire of the Lords Commissioners of the Treasury, respecting the arrangements recently adopted for the transfer of the Police Expenses at New South Wales and Van Diemen's Land to the Colonial Treasuries.

Arrangements for transfer of police expenses to colonial treasuries.

You will perceive that you have misunderstood that part of the arrangement which relates to the payment of the expenses of the Marine Department. It was not intended that they should be defrayed out of the funds applicable to Convict charges.

Expenditure on marine department.

I have therefore to desire that you will take immediate steps for relieving the Military chest of your Government from the expenditure specified in the statement which is enclosed in the letter from the Board of Treasury, and for providing for it from the resources of the Colonial Treasury.

I have, &c.,

GLENELG.

[Enclosure.]

MR. A. Y. SPEARMAN TO UNDER SECRETARY STEPHEN.

Sir, Treasury Chambers, 3 May, 1837.

I am commanded by the Lords Commrs. of H.M. Treasury to transmit herewith, with reference to the Communications made to you on 8th and 21st Sept. last on the subject of the transfer of the Police Expenses at V. D. Land to the Colonial Treasury, copy of a letter addressed by the Colonial Secretary to the officer in charge of the Commissariat at Hobart Town on 18 July last on that subject, and to request you will lay the same before Ld. Glenelg for his information, at the same time calling his Ldship's attention to that part of the arrangements therein provided for, which relates to the payment of the expences of the Marine Dept. out of the funds applicable to convict charges.

Transmission of letter re police and marine expenses.

Their Ldships request you will observe to Ld. Glenelg that the most recent estimate they have recd. from the Commissary at

1837.
6 June.

N. S. Wales also comprizes charges for the marine Dept. in that Colony, but that these charges do not in either instance appear to my Lords to be of such description as it was proposed in the Communication made by their direction to Sir G. Grey on the 23d Sept., 1834, to leave chargeable on the Funds of this country.

Expenses
of marine
department
charged to
colonial
treasuries.

My Lords have therefore caused statements of the estimated charges under this head in each of the Colonies to be prepared, and they are herewith enclosed for the consideration of Lord Glenelg; and they wd. suggest that the Governor of N. S. Wales and the Lt. Governor of V.D.L. shd. be respectively instructed to take the requisite steps without delay for relieving the Military Chest from the expenditure specified in these statements, and for providing for it from the resources of the Colonial Treasuries.

I am at the same time to request that you will further observe to his Ldship, that it wd. appear, from a Report made to my Lords by the Commissary of Accounts at V. D. Land, that some communication on the subject of the transfer of the Police Charges had been made to the Commissary by the Colonial Secretary in addition to the letter of the 18th July now forwarded, and that it was the intention of the Lt. Governor to refer some points, connected with the arrangement arising out of this transfer, for the consideration of H.M. Govt. They therefore request you will move Ld. Glenelg to inform them whether any report has been made to his Lordship on this subject by the Lieutt. Governor.

I am, &c.,

A. Y. SPEARMAN.

[Sub-enclosure.]

EXTRACT—CONVICT ESTIMATE.

Estimate for
expenditure
on marine
department.

Dock Yard—	Marine Department.	£	s.	d.	
1 Clerk to Master Attendant, 5s. a day		91	5	0	
1 Assistant Clerk, 1s. a day		18	5	0	
1 Constable and Overseer, 2s. 3d. a day		41	1	3	
1 Messenger, 8d. a day		12	3	4	
		<hr/>			£162 14 7
Brig "Governor Philip"—		£	s.	d.	
1 Master at	136 17 6 pr. ann.				
1 Mate	63 17 6 " "				
1 Second Mate	45 12 6 " "				
1 Carpenter	68 8 9 " "				
14 Seamen at 1s. 9d. pr. dy.	447 2 6 " "				
		<hr/>			
		£761	18	9	
Victualling the Master and Crew .	£275 9 6				
		<hr/>			£1,037 8 3
Schooner "Isabella"—		£	s.	d.	
1 Master at	136 17 6 pr. ann.				
1 Mate	63 17 6 " "				
1 Second Mate	45 12 6 " "				
1 Carpenter	68 8 9 " "				
14 Seamen at 1s. 9d.	388 5 0 " "				
		<hr/>			
		£698	1	3	
Victualling the Master and Crew .	240 6 6				
		<hr/>			£938 7 9
Government Boats—		£	s.	d.	
1 Superintendent at	75 0 0 pr. ann.				
3 Coxswains	36 10 0 " "				
1 Watchman at 8d.	12 3 4 " "				
		<hr/>			
		<hr/>			123 13 4
		<hr/>			£2,262 3 11

New South Wales.

SIR RICHARD BOURKE TO LORD GLENELG.

(Despatch No. 40, per ship *Maria*; acknowledged by lord Glenelg.
28th December, 1837.)1837.
6 June.

My Lord, Government House, 6 June, 1837.

By a Despatch of the 14 October last, No. 114. I acquainted Your Lordship with the result of the search, which was undertaken by Your Lordship's desire, for the Passengers and crew of the Merchant Ship "*Charles Eaton*," intending to report further particulars by an early opportunity. It appeared to me, upon examining the Log and Memoranda of Mr. Lewis, who commanded the Colonial Schooner *Isabella* on this duty, that the same narrative, which could be compiled from these materials for Your Lordship's information, would be usefully published for the satisfaction of the friends of the deceased Persons, and also with a view to disseminate such additional knowledge of the passage of Torres Straits as was acquired during the voyage. I was more easily induced to adopt this course, as Capt'n. King, who conducted the Survey of the Straits some years since, kindly undertook to compile the narrative. It lingered in the press until I sailed on my recent visit to Port Phillip, but, according to Instructions left with the Colonial Secretary, fifty copies were sent to the Colonial Agent General on each of the dates mentioned in the margin.* Mr. Barnard was instructed to furnish a copy to Lloyd's Coffee House, and as many to your Lordship's and the Admiralty Departments as should be required, placing the remainder in the hands of a Bookseller for disposal.

Publication of
log-book and
memoranda of
C. M. Lewis on
search for
survivors of
barque
Charles Eaton.

From the published narrative† (a copy is sent herewith) the intelligence and activity, with which the search was prosecuted by Mr. Lewis, is very apparent, and I trust Your Lordship will concur with me in considering his exertions entitled to some further reward than the ordinary pay of Master of a Colonial vessel, viz., 7s. 6d. a day and rations. As the duty was undertaken by direction of His Majesty's Government, there will not, I think, be any impropriety in rewarding him as has been done on other similar occasions by a grant of Crown Lands, and I would propose to Your Lordship to give an order for 1,240 acres, or a donation of £300 from the Revenue of Crown Lands in favor of Mr. Lewis.

Reward
proposed for
C. M. Lewis
for services.

I have, &c.,

RICHD. BOURKE.

SIR RICHARD BOURKE TO LORD GLENELG.

(Despatch No. 41, per ship *Maria*; acknowledged by lord Glenelg.
18th November, 1837.)

My Lord, Government House, 7 June, 1837.

7 June.

The accompanying Memorial of Mr. Wm. Barton, formerly a servant of the Australian Agricultural Company, praying

* *Marginal note*.—17 March, 22 April, 1837. † Note 210.

1837.
7 June.

Application by
W. Barton for
land grant.

Decision *re*
claims of
R. Dawson.

Particulars
re claims of
W. Barton.

your Lordship's sanction to a free grant of Land, is grounded upon a supposed likeness between his case and that of Mr. Robert Dawson, the late agent of the Company, which was the subject of your Lordship's Despatch of the 18th September, 1835, No. 50. It is therefore necessary that I should acquaint Your Lordship with the result of the enquiry, which was instituted by Your Lordship's desire, into the case of Mr. Dawson with a view to his receiving the grant he would have been entitled to, had his application been favorably entertained in the year 1828. The accompanying Minute of the Executive Council will shew that there appeared to that Board no sufficient reason for withholding the Land Mr. Dawson applied for at the time mentioned.

Mr. Barton's claim does not, however, rest upon any application made by him before the New Regulations came into force. On the contrary, it appears that, by his engagement with the company, he considered himself debarred from making such an application. His complaint is that he emigrated with the intention of obtaining land under the former Regulations, whenever the removal of the restriction, which he had for a time imposed on himself, should permit, and that, when such actually was the case, he found that he could only obtain Land by purchase. Mr. Dawson's rupture with the company led to an earlier application for Land on his own account, and it is in virtue of that application that he has now received it.

I have, &c.,

RICHD. BOURKE.

[Enclosure No. 1.]

[*A copy of this memorial is not available.*]

[Enclosure No. 2.]

EXTRACT from Summary of Council No. 36/6 of 2nd March, 1836.

Mr. Dawson's claim to a Grant of land.

Decision of
executive
council *re*
claims of
R. Dawson to
land grant.

HIS EXCELLENCY the Governor laid before the Council a Despatch from the Right Honble. The Secretary of State No. 50 of 18th September, 1835, transmitting a Memorial addressed to the House of Commons by Mr. Robert Dawson on the subject of a Grant of land, for which he applied to General Darling in 1828, together with the several official documents connected with his claim.

The Council, having attentively considered all the circumstances of the case, recommended that Mr. Dawson be allowed to select two sections of land in any part of the Colony open to the location of Settlers previously to the 1st July, 1831, and subject to the Regulations then in force being the quantity he originally applied for, and not three sections as stated in his Memorial to the House of Commons, as there appears to the Council to be no doubt that, had he remained in the Colony, he would have received a Grant to that extent.

The Council have not gone into the question of Capital that Mr. Dawson might have possessed when he made his application, which

it would at this time be difficult, if not impossible, satisfactorily to determine; conceiving that, in granting to him the full extent of his original application, they have fulfilled the intention of the Right Honble. the Secretary of State.

1837.
7 June.

E. DEAS THOMSON, Clerk, Councils.

LORD GLENELG TO SIR RICHARD BOURKE.
(Despatch No. 326, per ship James Pattison.)

Sir, Downing Street, 9 June, 1837. 9 June.

I have received a Memorial from Mr. John Roach, Commander of the Colonial Revenue Cruizer "Prince George" in the service of your Government, praying that he may be placed on the same footing as the Civil Commanders of Revenue Cruizers in this Country. The Memorial was referred, by my directions, for the consideration of the Lords Commissioners of the Treasury; and they have reported that, as the Vessel commanded by Mr. Roach is in the general service of the Colonial Government of New South Wales, their Lordships do not feel at liberty to sanction any special deviation in that officer's case from the regulations and arrangements by which the several branches of the Public Service and Establishments in that settlement are usually governed.

Reply to
J. Roach *re*
status as
commander of
revenue cruiser.

I have to request that you will communicate this answer to Mr. Roach, and

I have, &c.,
GLENELG.

LORD GLENELG TO SIR RICHARD BOURKE.
(Despatch No. 327, per ship James Pattison.)

Sir, Downing Street, 10 June, 1837. 10 June.

With reference to my dispatch No. 296 of the 19th April last, I have the honor to acquaint you that the Lords Commissioners of the Treasury have concurred in the recommendation that you should take the requisite steps for obtaining from the Legislative Council of your Government a vote of such amount as will provide for the issue to Mr. Kinchela, on the cessation of his employment as Acting Puisne Judge, of the same rate of temporary allowance as it had been intended to assign to him out of the saving, which would have accrued from the contemplated reduction in the charge for Salaries of the Colonial Law Officers at New South Wales, until an opportunity might offer for his re-employment in some situation in the Colonial Service for which his infirmity of hearing would not disqualify him.

Approval of
appropriation
of temporary
allowance for
J. Kinchela.

I have, &c.,
GLENELG.

1837.
10 June.

LORD GLENELG TO SIR RICHARD BOURKE.
(A circular despatch, per ship James Pattison.)

Sir, Downing Street, 10th June, 1837.

With reference to those Returns in the Annual Blue Book which relate to matters connected with the Ordnance Department, I have the honor to acquaint you that the Master General and Board have directed the Respective Officers in the Colony under your Government to supply such information for the future as may be required to complete those Returns.

I have, &c.,
GLENELG.

Ordnance
returns in
"blue book."

LORD GLENELG TO SIR RICHARD BOURKE.
(Despatch per H.M. ship Beagle.)

12 June.

Sir, Downing Street, 12th June, 1837.

His Majesty's Surveying Vessel Beagle* having been ordered to explore certain parts of the North West Coast of New Holland and to survey the best channels in the Straits of Bass and Torres, I have to request that you will afford the Beagle every assistance, as far as your means will admit, in furtherance of the enterprise on which she is to be employed.

I have, &c.,
GLENELG.

Instructions
re H.M. ship
Beagle.

LORD GLENELG TO SIR RICHARD BOURKE.
(Despatch No. 328, per ship James Pattison.)

Sir, Downing Street, 12 June, 1837.

I regret to acquaint you that Sir Francis Forbes has been compelled, from the increasing decline of his health, to retire from his office of Chief Justice of the Supreme Court of New South Wales.

On receiving a representation from him to that effect, a copy of which is enclosed, I submitted his resignation to the King, who has been graciously pleased to accept it.

You are so well aware of the highly valuable services which Sir Francis Forbes has rendered to the Colony under your Government that it appears to me unnecessary to advert to them at any length on the present occasion; but I cannot omit to record generally my sense of the able and zealous manner, in which he has carried into effect the important objects contemplated by His Majesty's Charter of Justice for New South Wales, and especially in the institution of the Supreme Court of the Colony in the year 1823, of which he was the first Chief Justice.

Resignation
of F. Forbes.

Testimony to
services of
F. Forbes.

* Note 211.

1837.
12 June.

Retiring
pension for
F. Forbes.

In representing to the Lords Commissioners of the Treasury my feelings on this subject, I recommend that a liberal scale of retirement should be granted to Sir Francis Forbes, no scale of retiring pensions having been established, as you are aware, for Colonial Judges.

Their Lordships have concurred in my recommendation, and I have now the satisfaction of instructing you to propose to the Legislative Council of your Government the grant to Sir Francis Forbes of a retired allowance of £700 per annum from the Colonial Revenues, to commence from the 1st July next.

I hope to be enabled at an early period to acquaint you with the arrangements which may be made for filling up the vacancy on the Bench at Sydney, and

I have, &c.,

GLENELG.

[Enclosure.]

SIR FRANCIS FORBES TO LORD GLENEG.

My Lord.

London, 27 April, 1837.

My Leave of Absence from N. S. Wales being about to expire I respectfully beg leave to bring the state of my health under your Lordship's consideration.

Request by
F. Forbes for
permission to
retire on
pension.

In the interview with which yr. Ldship. honored me shortly after my arrival in London, I communicated to your Ldship, that the frequent and severe attacks of illness, which I had experienced for two years preceding my departure from the Colony, had rendered me unequal to the duties of my office, and compelled me to try the effects of relaxation from business and change of climate. I regret to state that my hopes of restoration have not been realized, and that, after 12 months' trial, my complaints have rather increased than diminished. I suffer from nervous debility, which has lately been accompanied with a paralytic affection of my left arm: And, as these infirmities have been induced by the arduous duties of the Judicial Office which I have discharged in different climates for 20 years, I cannot hold out to myself the hope of being able to resume my office in New South Wales with any reasonable expectation of discharging its very laborious, responsible and important duties with advantage to the public. Indeed, I am satisfied that my physical powers are no longer equal to the performance of my office. I therefore feel it due to your Lordship to make this candid avowal before I solicit an extension of leave of absence, from which I do not anticipate any salutary result to myself, and which cannot but be attended with inconvenience to the local Govt. I wd. therefore venture to hope that yr. Ldship. will be pleased to permit me to retire upon some allowance as a Pension, according to the length of my service in the Supreme Court of New South Wales.

The present time may not be deemed the fittest to bring my public services under the notice of your Lordship; but I must trust to your Lordship's indulgence for permission to state that the Supreme Court was instituted in Octr., 1823, by H.M.'s Charter, in pursuance of the Act of Parlt., and that I was appointed the first Chief Justice

Services of
F. Forbes.

1837.
12 June.
Services of
F. Forbes.

for the purpose of forming the Court, providing it with Rules of Practice, suited to the Circ'es of its Institution, and of carrying the other provisions of the Act of Parlt. and Royal Charter into operation. How far I have performed the very difficult and responsible office confided to me, I must leave to the judgment of others to determine; but I may be allowed to take credit to myself for having spared no mental exertion or bodily fatigue in the discharge of my duty, and to state that my health has been lost in the public service. With such claims to consideration, I venture to submit my case to your Ldship., and, shd. your Ldship. deem it proper to be entertained, to express a hope that, as no scale has been established for retiring allowances to Judges in the Colonies, that my Pension may be regulated as nearly as your Lordship may think equitable, in accordance with the retiring allowances of H.M. Judges in the East Indies. In the mean time, until I shall be honored with yr. Lordship's decision, I have to request that yr. Ldship. will grant me a short extension of leave of absence from my office.

I have, &c.,

FRANCIS FORBES.

SIR RICHARD BOURKE TO LORD GLENELG.

(Despatch No. 43, per ship Maria; acknowledged by lord Glenelg, 3rd April, 1833.)

14 June.

My Lord,

Government House, 14 June, 1837.

I have had occasion to mention incidentally in Despatches addressed to Yr. Lordship that I had thought it necessary to go from hence to Port Phillip in the month of March last for the arrangement of various matters connected with the successful occupation of that remote part of this Government. I delayed making any specific report of what I observed during my visit, or directed to be done in consequence of it, until I could forward a Map of the Country over which I travelled. By the kind assistance of Captain King of the Royal Navy, who accompanied me on the tour, I am now enabled to transmit a sketch of the ground adjacent to the waters of Port Phillip, extending inland in a northerly direction to Mt. Macedon, the nearest point of Major Mitchell's late survey, with which it is thus connected. To the Country thus described, which, when more accurately defined hereafter, will probably form a County of a large size, I have, at the desire of the Residents, permitted my name* to be attached on the Manuscript, awaiting His Majesty's gracious allowance before publication takes place. If Your Lordship thinks well of having this Sketch added to the Map of the Colony, which I presume Major Mitchell is about to publish in London, I have to request he may be informed on the subject.

I have now to acquaint Your Lordship that I found, on my arrival on the spot selected for a settlement by Mr. Batman on the banks of the Yarra River at the head of the Inland Sea called

* Note 212.

Visit of
Sir R. Bourke
to Port Phillip.

Transmission
of map of
county of
"Bourke."

Proposed
publication
of map.

Port Phillip, an assembled Population consisting of from sixty to seventy families. The situation appearing to be well chosen, I directed a Town to be immediately laid out, which Your Lordship will perceive by the Map has received the name of Melbourne.* Conceiving it to be an object of some importance to enable the families I have mentioned to place themselves with as little delay as possible on property of their own, I directed 100 allotments to be measured and offered for sale† at Melbourne on the first of this month. I also directed a few allotments to be put up in Williams Town on the shore of Hobson's Bay, where stores and Commissariat Establishments are likely to be soon formed. I have not yet received an account of the sales, but I have no doubt the allotments are readily purchased at advanced prices.

1837.
14 June.

Naming and planning of town of Melbourne.

Sale of allotments at Melbourne and Williamstown.

Population and live stock in district.

Description of country.

I found, at the beginning of March last, that the population in the whole district exceeded 500 souls, and, before I left Melbourne at the end of that month, the flocks, which had been sent from V.D.'s Land, numbered more than 100,000 sheep. The Country, which I traversed by the routes marked blue on the sketch, is of a varied description, but generally the pasture may be described as superior in quality to the average of the Districts of New S. Wales, which have been earlier settled. It is not for the most part well watered, but the general character of the Country is such as to render it a very desirable position for Settlers, whether Graziers or Agriculturists, and there is I think little doubt of its soon becoming the resort of Emigrants from Europe, as it is now of those Inhabitants of Van Diemen's Land, who find it difficult to extend their possessions or to establish their families to their liking on the Land remaining for selection in the Colony.

Problems of government.

As there is thus but little doubt that this Settlement will increase rapidly in numbers and wealth, it becomes of some importance to consider in what way its Government can be best administered and the Inhabitants obtain the benefit of the essential Institutions of Civil Society.

With respect to Government, I apprehend that the great distance between Sydney and Melbourne, whether the communication be by land or water, will render it extremely difficult for some time at least to keep up those frequent references upon ordinary as well as important subjects, which are required to be made to the seat of Government. The distance by land exceeds 550 miles, and the route passing for nearly 400 miles through a country as yet but little traversed or known, the time required to accomplish it on Horseback can hardly be taken at less than ten days. A passage by water may be effected in steam vessels in about four days; but the Steamers to encounter in winter the sea on the Eastern and Southern Coast of New South Wales

Difficulty caused by distance of Sydney from Melbourne.

* Note 213.

† Note 214.

1837.
14 June.

must be of considerable size and power, and the Establishment of such will not, I imagine, be attractive to private speculation until the new settlement has made so considerable a progress as to create a commercial intercourse of some importance between the two places. But it may be further observed that the vicinity of Launceston in V. D.'s Land to Port Phillip seems to point out the former as the mart to which the Inhabitants of the latter will for some time resort. To keep up, therefore, a regular intercourse between the Districts of Port Phillip and Sydney, it would be necessary for the present to Establish Govt. Steam vessels. The expence of these would be very heavy, and it is for consideration whether to diminish the necessity for frequent intercourse by the appointment of a Military Officer as Lieut. Governor or Commandant with Civil as well as Military Authority will not be a preferable expedient. To a Functionary of this character, all the officers of Government at Port Phillip and in the Southern Districts might be required to report and receive his orders and the authority for their proceedings, whilst periodical Reports should be made on his part to the Government at Sydney.

Proposal for
appointment of
lieut.-governor
and com-
mandant.

Absence of
necessity for
separate
legislature.

With respect to legislation, I do not consider that the appointment of a Lieut.-Governor would render necessary a separate Council or assembly for the Southern Districts of New South Wales. There would be no great inconvenience in requiring the attendance at Sydney for the Session of those, who might be appointed or elected Members of the Colonial Legislature.

Proposal for
appointment of
fourth judge
to visit Port
Phillip.

With respect to the administration of the Law, Your Lordship will perceive, by the annexed Letter of the Attorney General, that he proposes an addition of a fourth Judge to the Bench of the Supreme Court of New South Wales in order that one of the four may be available for holding assizes twice a year at Port Phillip and discharging the other duties both there and in Sydney, which he describes. The arrangement proposed by Mr. Plunkett would probably be sufficient for some time without the institution at Port Phillip of Quarter Sessions or a Court of Requests. But, to provide with regularity a passage between Sydney and Melbourne for the Judge and attendants on the Court, it would be necessary to establish the Government Vessel, to which I have alluded in a former paragraph of this Despatch, and on which subject I have the honor to address Your Lordship a separate Despatch by this opportunity under another cover.

Probable
expenditure.

The Expense, which it may be necessary to incur under the proposed arrangement, is detailed in an annexed Schedule and submitted for consideration. I imagine the whole charge for Port Phillip may for some time be defrayed by the Sale of Land

within the districts and the receipt of duties of Customs. The latter for the Quarter ending the 5 January last amounted to £329.

1837.
14 June.

In my Despatch of the 15 Sept. last, No. 101, I informed your Lordship of the measures I had adopted for opening to location the district in question, and of the appointments I had made from hence for the purpose. I found, when at Port Phillip, that the Police Magistrate, Capt. Wm. Lonsdale, late of the 4th Foot, had conducted the varied duties of his station with great ability and zeal, and that through his activity and discretion the comfort of the settlers and the preservation of good order in the district had been fully provided for. I found also that great kindness and attention had been paid to the Aboriginal Natives both by him and the Missionary Langhorne. I have given to them both every assistance in my power, and I indulge a hope, notwithstanding some unfortunate occurrences, that the intercourse between these natives and the white Population of Port Phillip will be carried on with greater benefit to the former than has hitherto been experienced in other parts of the Colony.

Commendation
of administra-
tion of
W. Lonsdale.

Treatment of
natives at
Port Phillip.

I have not had occasion to make any material addition to the Establishments of Port Phillip reported in my Despatch of 15 Sept. last. Additions both to the fixed and contingent charges will, however, be unavoidable as the Settlement encreases in numbers. The expenditure on account of the Settlement from the occupation by this Government in October last to the close of the year amounts to about £3,000, and has been defrayed from the Revenue of Crown Lands, to which Revenue it is probable the Sale of Crown Lands situated within the District will hereafter make a considerable addition. I propose to put such lands up to Sale as soon as the necessary surveys are completed.

Expenditure on
settlement at
Port Phillip.

I have, &c.,

RICHD. BOURKE.

[Enclosure No. 1.]

SCHEDULE OF PROPOSED EXPENDITURE.

Salary of a Puisne Judge at the same rate as the other puisne Judges of the Sup. Cot.	£1,500
His Clerk	150
Clerk of the Crown at Port Phillip	400
Lt. Govr. or Commandant to cover charges for lodging-money, fuel, light and Rations	800
Forage for 2 Horses issued in kind, about	73
Allowance for a Clerk	150

Expenditure
proposed
on legal
establishment
at Port Phillip.

MEM.—It is proposed to continue the appointment of a Police Magistrate at Melbourne as indispensable.

[Enclosure No. 2.]

[A copy of this letter will be found in a volume in series III.]

1837.
14 June.

SIR RICHARD BOURKE TO LORD GLENELG.
(Despatch No. 44, per ship Maria.)

My Lord, Government House, 14 June, 1837.

Recommendation of K. Snodgrass for appointment as lieutenant-governor or commandant at Port Phillip.

Having in my Despatch No. 43 of this date suggested to Your Lordship the expediency of appointing a Military Officer as Lieut. Governor or Commandant of the South Districts of New South Wales, under which designation I principally regard Port Phillip, I trust I may be pardoned if I venture to bring under your Lordship's notice an Officer of high Military character and experience as a Candidate for the employment. Colonel Kenneth Snodgrass has been long on the general Staff of this Command and for the last four years has held a seat in the Executive and Legislative Councils. Within the same period, he administered the Government of V. D. Land for almost three months to the perfect satisfaction of the Inhabitants as declared by an address from a public meeting on his giving up the administration to Sir John Franklin. Colonel Snodgrass has not obtained any grant of Land in Town or Country as a favor from the Government of New South Wales, Though he has discharged the important Executive and legislative functions to which I have adverted and necessarily at some expence to himself. He seems therefore to have a strong claim to the favorable consideration of His Majesty's Ministers. If, in addition to this claim, I may be permitted to offer my opinion upon this officer's merits, I can assert without hesitation that I consider Colonel Snodgrass peculiarly well fitted to fill the appointment for which I venture thus to submit his name.

I have, &c.,

RICHD. BOURKE.

SIR RICHARD BOURKE TO LORD GLENELG.

(Despatch No. 45, per ship Maria; acknowledged by lord Glenelg, 15th May, 1838.)

15 June.

My Lord, Government House, 15 June, 1837.

Necessity for employment of government vessels.

The formation of the several Settlements which exist upon the Eastern and Southern Coasts of New South Wales, and the appointment of Norfolk Island, distant 1,000 miles from Sydney, as one of the Places to which offenders are transported from the Colony, have rendered it necessary to Establish Government Vessels to keep up the required communication with those parts. Your Lordship may be aware that at one period there were six vessels employed on this service. Upon my arrival in 1832, I found two only, a Brig and a Schooner under Colonial orders and with these two and the occasional, latterly I may say the frequent chartering of small merchant Craft, the necessary intercourse has been maintained. The recent Settlement at Port

Phillip and occupation, though as yet but partial, of Twofold Bay require without delay the Establishment of further means of intercourse along the Coast. With the two vessels now in Colonial Employ, the required communications cannot be kept up. It is therefore for consideration in what way the additional means can best be procured. The use of Steam Vessels has naturally suggested itself, and I have consulted on the subject the Harbour Master and other Persons acquainted with the Coasts. I have the honor to transmit the Copy of a letter from the former, to which I beg your Lordship's attention, and to submit my opinion that it will be desirable on every account to provide the Colony as speedily as possible with a Steam Vessel, either of the smaller or large description specified by Mr. Nicholson. If the cost of the larger be but £4,000 more than that of the smaller, I would prefer the larger from my knowledge of the heavy sea which prevails on this Coast in the winter season.

1837.
15 June.

Proposal for employment of steam vessels.

Your Lordship will perceive that, on the arrival of a Steamer, it is suggested by the Harbour Master to dispose of the *Isabella* Schooner, whose annual expense to the British Government has averaged nearly £1,200 during the last five years. It is probable also that the establishment of a well found and well appointed Steamer will render it unnecessary to incur any further expense in chartering Merchant Vessels for the Convict Service. By the use of a Steamer, some considerable expense may be saved in providing every six months for the passage of the Judge and Attendants of the Court to Port Phillip to hold an Assizes at Melbourne as recommended by the Attorney General of New South Wales as recommended in my Despatch of the 13 inst., No. 43. It is possible also that, notwithstanding what is objected by the Harbour Master, a steamer of the larger size which I have mentioned might take the Norfolk Island duty, in which case the reduction of the remaining sailing vessel (the Governor Phillip) would effect another saving of more than £1,200 a year.

Proposed sale of schooner *Isabella*.

Advantages of employment of steam vessel.

Possible reduction of brig *Governor Phillip*.

The Colonial Vessels now employed constitute a charge on the British Government as they are chiefly required for the Military and Convict services. Such an arrangement for a Steamer might however be made as to render the Vessel useful to the Colonial Departments, for which a certain payment should be made from the Colonial Treasury. I have no doubt that nearly one half the annual cost of such a vessel would be readily incurred by the Colonial Government in consideration of the convenience it would afford, or if required that a sum would be paid into the Chest here in aid of the first cost.

Charge for colonial vessels.

Subsidy proposed for steamer from colonial treasury.

Under every view of the case, therefore, I would submit the advantage of immediately employing a Government Steamer

1837.
15 June.

Steamer to
be built and
equipped in
England.

on these Coasts, and, for the reasons stated by the Harbour Master, that the Vessel should be built in and sent out completely equipped from England. In the equipment, spare Boilers, and duplicates of these parts of the Machinery most liable to wear, should be included. If, however, the Lords of the Treasury should prefer furnishing the Machinery only, the vessel might be built here, but neither so expeditiously nor so securely as in Great Britain.

I have, &c.,

RICHD. BOURKE.

Return re
expenditure
on chartering
merchant
vessels.

P.S.—After this Despatch was signed, I received a Return for which I had called, from the Assistant Commissary General, which will shew to Your Lordship what has been the expense of chartering Merchant Vessels in aid of the Colonial Service for the last five years.

[Enclosures.]

[Copies of the letter and return are not available.]

LORD GLENELG TO SIR RICHARD BOURKE.

(Despatch No. 330, per ship William Nichol.)

16 June.

Appointment
of chaplains.

Sir,

Downing Street, 16 June, 1837.

I have the honor to acquaint you that, the undermentioned Gentlemen having been recommended to me by the Society for the Propagation of the Gospel as well qualified to fill the office of Chaplains at New South Wales and having been approved by the Bishop of London, I have accordingly given my sanction to their appointments,

The Revd. W. Stack; The Revd. W. Sowerby; The Revd. G. N. Woodd; The Revd. J. K. Walpole; The Revd. J. Taylor.

Mr. E. Rogers and Mr. Thomas Steele have also been recommended by the Society, and will shortly be ordained by the Bishop of London, and will proceed to New South Wales in the same manner.

All these Clergymen will receive the usual allowance of £150 on account of their outfit and passage.

I have, &c.,

GLENELG.

SIR RICHARD BOURKE TO LORD GLENELG.

(Despatch No. 46, per ship Maria; acknowledged by lord Glenelg, 23rd November, 1837.)

My Lord,

Government House, 16 June, 1837.

In a Letter from the Attorney-General of this Colony, which is transmitted with my Despatch of the 13 June inst., No. 43, it is recommended that a fourth Judge be added to the

Supreme Court to enable one to hold assizes at Port Phillip every six months, and to sit at Sydney in Equity Cases. If this arrangement should be adopted by His Majesty's Government, I am sure I shall be pardoned for again bringing under Your Lordship's notice the competency for this employment of Mr. Kinchela, who occupies temporarily a seat on this Bench. This Gentleman's deafness has proved rather a less impediment to the discharge of his duty as a Judge than was at first apprehended, and his knowledge of Equity business has been already represented to Your Lordship.

I have, &c.,

RICHD. BOURKE.

1837.
16 June.

Nomination of J. Kinchela for appointment as proposed fourth judge.

LORD GLENELG TO SIR RICHARD BOURKE.

(Despatch marked "Separate," per ship William Nichol; acknowledged by Sir Richard Bourke, 27th November, 1837.)

Sir, Downing Street, 17 June, 1837.

17 June.

This Despatch will be delivered to you by Dr. Roberts who has been appointed to take the first party of Emigrants from the Western Highlands.

Appointment of Roberts to charge of emigrants.

In the appointment of Dr. Roberts to this service, I have been guided by the arrangement originating in the Colonial Government on making appointments of a similar nature. Dr. Roberts has been selected from among the Naval Surgeons, and the instructions with which he has been furnished are in substance the same as those which were given by yourself to Dr. Boyter and Dr. Galloway. I propose that he should likewise be remunerated on the same principle.

But, as a considerable portion of the labor and responsibility of selection has fallen in the present instance upon Dr. Boyter, it seemed to me but just that that officer should receive a proportion of the sum of £150, which you have been disposed to fix as the gratuity for the whole service of choosing as well as Superintending the Emigrants. I have therefore informed Dr. Roberts that the remuneration for his services will consist of full pay from the date of his appointment, and of an allowance of 10s. 6d. a day to cover his expences in completing the selection of Emigrants with Dr. Boyter; and that he will further enjoy a gratuity which will be accorded on his arrival, should the Colonial Government be satisfied with the performance of the service, but that the precise amount would be settled by the Authorities at Sydney. I request therefore that you will consider and decide what proportion of the amount of £150 should be assigned as a gratuity to Dr. Roberts, and what should be made payable to Dr. Boyter.

Division of gratuity between D. Boyter and Roberts.

I have, &c.,

GLENELG.

1837.
17 June.

LORD GLENELG TO SIR RICHARD BOURKE.
(Despatch No. 331, per ship James Pattison.)

Sir,

Downing Street, 17 June, 1837.

Despatch
acknowledged.

I have the honor to acknowledge the receipt of your dispatch No. 102 of the 16th Sept. last, reporting the steps which you had taken in compliance with my dispatch of the 26th Feby., 1836, for appointing Mr. Deas Thomson as Successor to Mr. McLeay in the office of Colonial Secretary to your Government.

Approval of
details *re*
appointment of
E. D. Thomson.

I approve of your proceedings on this occasion, altho' I much regret that any misunderstanding should have occurred as to Mr. McLeay's intentions.

Pension for
A. Macleay as
secretary to
transport
board;

I took immediate steps, on the receipt of your dispatch No. 102, to obtain for Mr. McLeay the restoration* of his Pension of £750 per annum, which had been formerly granted to him as Secretary to the late Transport Board; and the Lords Commissioners of the Admiralty have accordingly given directions for the payment of it to Mr. McLeay from the 1st January last, the day on which you proposed to issue Mr. Deas Thomson's Commission as Colonial Secretary.

and as colonial
secretary.

I have also the satisfaction of conveying to you Instructions from His Majesty's Government to propose to the Legislative Council of Your Government that an annual allowance of £250, to commence from the date of his resignation, should be granted to Mr. McLeay from the Colonial Funds in consideration of his services as Secretary to the Local Government.

I feel convinced that the Council will willingly shew this mark of consideration to Mr. McLeay.

I have, &c.,
GLENELG.

SIR RICHARD BOURKE TO LORD GLENELG.

(Despatch No. 47, per ship Maria; acknowledged by lord Glenelg, 19th December, 1837.)

My Lord,

Government House, 17 June, 1837.

Proposal for
system of free
education.

The Establishment of a general system of gratuitous Education for the poorer classes of this Community has already engaged the attention of His Majesty's Governmt., and I have been favored with a communication of your Lordship's views on the subject. In order to proceed successfully in the manner proposed, I find it will be necessary to introduce into the Colony some well qualified and respectable Schoolmasters' and Mistresses. I, therefore, beg to propose to Your Lordship to authorize the Colonial Agent to send out as early as possible two Men and their wives, who have been accustomed to teach according to the method of Lancaster or Bell. The men should also be competent to instruct in the higher branches of Mathematics and

Request for
schoolmasters
and mistresses.

* Note 215.

the latin language. A more particular instruction as to the required qualifications of both Masters and Mistresses is given by this opportunity to the Colonial Agent, who is desired to obtain your Lordship's commands on the subject of these appointments.

1837.
17 June.
Qualifications
required.

It is presumed the services of a competent Master may be engaged for about £150, and of his wife for £100 a year. A small house will be allowed them. An outfit of from £100 to £150 will, I imagine, be required to be advanced, and the Parties might be made useful by being embarked on board Prison Ships.

Salaries and
allowances
proposed.

I have, &c.,
RICHD. BOURKE.

SIR RICHARD BOURKE TO LORD GLENELG.

(Despatch No. 48. per ship Maria: acknowledged by lord Glenelg, 14th December, 1837.)

My Lord, Government House, 17 June, 1837.

Having called together the Legislative Council on the 30th ulto. for the purpose of renewing the Jury Bill, which was about to expire, I have the honor to transmit a Copy of the votes and Proceedings of that day, which contains my opening address, of the abstracts of Revenue and Expenditure for the year 1836 and of some other Papers laid before the Council.

Session of
council.
Transmission
of papers.

The Jury Bill having been renewed for one year, Council adjourned to the 27th inst., on which day the Estimates for 1838 will be presented.

Renewal of
jury bill.

I have, &c.,
RICHD. BOURKE.

P.S.—I take the liberty of adding two Returns not yet laid before the Council, which indicate the encreasing prosperity of the Colony in a very conspicuous manner.

[Enclosures.]

[Copies of these papers will be found in the "Votes and Proceedings" of the legislative council.]

SIR RICHARD BOURKE TO LORD GLENELG.

(Despatch No. 49, per ship Maria.)

My Lord, Government House, 20th June, 1837.

20 June.

In the month of March, 1836, I forwarded a supply of seeds of indigenous Australian Plants for the use of the Horticultural Society, as required by Your Lordship's Despatch of 4 July, 1835, No. 6. As an occasional renewal of this supply may be acceptable, I directed the Colonial Botanist to prepare another packet, and I have the pleasure to inform Your Lordship

Previous
shipment
of seeds.

1837.
20 June.
Shipment
of seeds of
Australian
plants.

that a Box enclosing it, addressed "On His M.'s Service" To the Rt. Hon. The Secy. of State for the Colonies, Downing Street, London, has been placed on board the Medora now about to sail for England.

I have, &c.,

RICHD. BOURKE.

LORD GLENELG TO SIR RICHARD BOURKE.

(Despatch per ship James Pattison; acknowledged by Sir Richard Bourke, 28th October, 1837.)

21 June.
Death of H.M.
William IV.

Sir,

Downing Street, 21st June, 1837.

It is with the greatest regret that I have to communicate to you the melancholy intelligence of the demise of His late Most Gracious Majesty, King William the Fourth.

His Majesty expired at His Castle at Windsor on the morning of the 20th Instant, at 12 minutes past 2 o'clock, to the great affliction of the Royal Family, and of all classes of His Majesty's Subjects.

Proclamation of
Queen Victoria.

Her present Majesty was this day proclaimed Queen Victoria, with all the solemnities used on the like occasions.

Her Majesty's most Gracious Declaration contained in the accompanying Gazette will best inform you of her determination under the guidance of Divine Providence to maintain the Reformed Religion as by Law established, securing at the same time to all the full enjoyment of Religious Liberty; and to protect the Rights, and promote to the utmost of Her power the happiness and welfare of all Classes of Her Subjects.

Form for
proclamation of
accession of
Queen Victoria.

The form to be observed in proclaiming within your Government Her Most Sacred Majesty Queen Victoria is stated for your guidance in the accompanying communication from the Lords of Her Majesty's Most Honourable Privy Council, which also transmits, in order that the same may be made Public within your Government, Her Majesty's Proclamation requiring all persons, being in office of authority or Government at the Decease of the late King, to proceed in the execution of their respective Offices.

I enclose to you Copies of the Extraordinary Gazettes which have been published on this occasion.

I have, &c.,

GLENELG.

[Enclosure No. 1.]

ORDER-IN-COUNCIL.

Order-in-
council re
proclamation of
accession of
Queen Victoria.

AFTER our hearty Commendations. It having pleased Almighty God to take to His Mercy out of this troublesome life Our late Sovereign Lord, King William the Fourth, of Blessed and Glorious Memory, and thereupon Her Royal Majesty Queen Victoria being here proclaimed, We have thought fit to signify the same unto you with directions that you do, with the assistance of the Council and

Numbers of the principal Inhabitants of New South Wales, forthwith Proclaim Her Most Sacred Majesty Queen Victoria according to the Form here inclosed with the Solemnities and Ceremonies requisite on the like occasions. And you are likewise to publish and proclaim a Proclamation requiring all persons being in Office of Authority or Government at the Decease of the late King to proceed in the Execution of their respective Offices till Her Majesty's pleasure shall be further signified according to the printed Copy of the Proclamation herewith transmitted to you for that purpose. And so not doubting of your ready compliance herein, We bid you heartily Farewell

1837.
21 June.

Proclamation
re continuance
in office of
officials.

From the Council Chamber at St. James's This Twenty First day of June, 1837,

Your loving friends,

COTTENHAM, C. (One signature
undecipherable.)
MELBOURNE.
PALMERSTON. T. SPRING RICE.
GLENELG. ANGLESEY.
HILL.

[Enclosure No. 2.]

FORM FOR PROCLAMATION.

WHEREAS it hath pleased Almighty God to call to His Mercy Our late Sovereign Lord King William the Fourth of Blessed and Glorious Memory, by whose decease the Imperial Crown of the United Kingdom of Great Britain and Ireland and all other His late Majesty's Dominions is solely and rightfully come To the High and Mighty Princess Alexandrina Victoria, saving the rights of any Issue of His late Majesty King William the Fourth, which may be born of His late Majesty's Consort. We* therefore Do now hereby, with one full voice and Consent of Tongue and Heart, Publish and Proclaim That the High and Mighty Princess Alexandrina Victoria is now by the Death of our late Sovereign of happy and Glorious Memory become our only lawful and rightful Leige Lady, Victoria, by the Grace of God, Queen of the United Kingdom of Great Britain and Ireland, Defender of the Faith, saving as aforesaid Supreme Lady, etc.,† To whom saving as aforesaid, We do acknowledge all Faith and constant obedience with all hearty and humble affection, Beseeching God, by Whom Kings and Queens do Reign, to Bless the Royal Princess Victoria with long and happy years to Reign over us.

Form for
proclamation of
accession of
Queen Victoria.

[Copies of the "London Gazette Extraordinary," with three supplements, dated 20th June, 1837, were also enclosed.]

LORD GLENELG TO SIR RICHARD BOURKE.

(Despatch per ship James Pattison; acknowledged by Sir Richard Bourke, 28th October, 1837.)

Sir,

Downing Street, 23d June, 1837.

23 June.

I transmit to you herewith Her Majesty's Warrant authorizing you to make use of the Public Seal now in use until another shall be prepared and transmitted to you, together with

Transmission of
warrant and
instructions.

* Marginal note.—Here insert the description of the persons making the Proclamation.

† Marginal note.—Here insert the description of the Possession or Colony where the Proclamation is made.

1837.
23 June.

additional Instructions for the alterations in the Form of Common Prayer which have become necessary by the Demise of the Crown.

I have, &c.,
GLENELG.

[Enclosure No. 1.]

WARRANT FOR USING TERRITORIAL SEAL.

VICTORIA R.

Our Will and Pleasure is, and we do hereby authorise and empower you to make use of the Public Seal,* made use of within Our Colony of New South Wales and its Dependencies during the life time of Our Beloved Royal Uncle, the late deceased King, for sealing all things whatsoever that are used to be Sealed therewith, until another Seal shall be prepared and transmitted to Our said Colony, duly authorized by Us; and for so doing this shall be your Warrant. Given at our Court at St. James's, the Twenty second day of June, 1837, in the First year of Our Reign.

By Her Majesty's Command.

GLENELG.

[Enclosure No. 2.]

INSTRUCTIONS FOR ALTERATION OF PRAYERS.

VICTORIA R.

Additional Instructions to Our Trusty and Well beloved the Governor, Lieutenant Governor, or Officer Administering the Government of Our Colony of New South Wales and its Dependencies. Given at Our Court at St. James's, the Twenty Second day of June, 1837, in the First year of Our Reign.

Whereas We have been pleased by Our Order in Council of the Twenty first Instant (a copy whereof is hereunto annexed) to declare Our Royal Will and Pleasure that, in all the Prayers, Liturgies and Collects for the Queen, instead of the Word "King" the word "Queen," instead of the word "William" the word "Victoria." instead of the words "Our Sovereign Lord." the words "Our Sovereign Lady" be inserted; and that in all the Prayers, Liturgies and Collects so altered, such change of the pronouns, He, Him and His, be made as will by those alterations be rendered necessary; and that, in all the prayers, Liturgies and Collects for the Royal Family, the words "Adelaide the Queen Dowager" be substituted for the words "Our gracious Queen Adelaide"; Our Will and Pleasure Therefore Is that, in all the Prayers, Liturgies and Collects for the Queen to be used within Our Colony of New South Wales and its Dependencies under your Government, instead of the word "King" the word "Queen," instead of the Word "William" the word "Victoria," instead of the words "Our Sovereign Lord" the words "Our Sovereign Lady" be inserted; and that, in all the Prayers, Liturgies and Collects so altered, such change of the Pronouns, He, Him and His, be made as will be by those alterations rendered necessary; and that, in all the Prayers, Liturgies and Collects for the Royal Family, the words "Adelaide the Queen Dowager" be substituted for the words "Our gracious Queen Adelaide"; And, for the better observance hereof in Our said Colony, it is Our further Will and Pleasure that you cause the same to be forth with published in the several Parish Churches and other Places of Divine Worship within the said Colony and its Dependencies, and that you will take care that obedience be paid thereto accordingly.

* Note 216.

Warrant
for using
territorial
seal.

Instructions for
alterations in
form of
common
prayer.

[Sub-enclosure.]

1837.
23 June.

ORDER-IN-COUNCIL.

At the Court at St. James's, the 21st of June, 1837.

PRESENT:—The Queen's Most Excellent Majesty; Archbishop of Canterbury; Archbishop of York; Lord Chancellor; Lord President; Lord Privy Seal; Earl of Minto; Lord John Russell; Viscount Palmerston; Viscount Melbourne; Viscount Howick; Lord Glenelg; Mr. Poulett Thomson; Sir John Hobhouse, Bt.; Mr. Chancellor of the Exchequer.

Order-in-council *re* alterations in form of common prayer.

Whereas Her Majesty was this day pleased to declare Her Royal Will and Pleasure that, in all the Prayers, Liturgies, and Collects for the Queen instead of the word "King" the word "Queen," instead of the word "William" the word "Victoria," instead of the words "Our Sovereign Lord" the words "Our Sovereign Lady" be inserted, and that, in all the Prayers, Liturgies, and Collects, so altered, such change of the Pronouns, He, Him and His, be made as will be by those alterations rendered necessary; And that, in all the Prayers, Liturgies and Collects for the Royal Family the words "Adelaide the Queen Dowager" be substituted for the words "Our Gracious Queen Adelaide." To the end that the same form and order may be observed in Her Majesty's several Provinces, Islands, and Settlements in America and the West Indies and elsewhere within Her Majesty's Foreign Dominions. It is hereby ordered by Her Majesty in Council that the Right Honorable Lord Glenelg one of Her Majesty's Principal Secretaries of State do cause the necessary communications to be made to the Governors of Her Majesty's said several Provinces, Islands and Settlements respectively.

WM. J. BATHURST.

LORD GLENELG TO SIR RICHARD BOURKE.

(Despatch No. 332. per ship James Pattison.)

Sir, Downing Street, 23d June, 1837.

I have received your Despatch of the 21st Novr. No. 124, transmitting three communications from Dr. Polding embracing the several points adverted to by my Predecessor, the Earl of Aberdeen, in his Despatch of the 22d Decr., 1834, with respect to the Revd. Mr. Therry.

Despatch acknowledged.

On a reference to the former correspondence on this subject, and on full consideration of the documents now transmitted to me, I have to convey to you my approval of the restoration of Mr. Therry to the list of Roman Catholic Clergymen paid by the Colony; and I trust that his future conduct will be in every respect such as to justify the opinion which Dr. Polding has expressed with regard to him.

Approval of reinstatement of Revd. J. J. Therry as chaplain.

With reference to the general memoir on the subject of the Roman Catholic Clergy and Population, to which you have called my attention, I feel it unnecessary to say more than to express a hope that, under the provisions of the recent Act of Council

for the erection of Churches and Chapels and the maintenance of Ministers, no serious cause of complaint will exist on the part of any numerous body of Christians in the Colony of the inadequacy of the means of religious Instruction. I have, &c.,

GLENELG.

LORD GLENELG TO SIR RICHARD BOURKE.

(Despatch No. 333, per ship James Pattison.)

24 June.

Sir,

Downing Street, 24 June, 1837.

I have received your Despatch of the 29th Novr. last No. 132, transmitting the copy of a letter which you had received from the Bishop of Australia, acquainting you with the progress which had been made in providing for the erection of Churches and Parsonages, and for the settlement of Clergymen of the Church of England under the provisions of the recent Act of Council on this subject, and recommending that nine Additional Clergymen of that Church should be sent out to the Colony. The convincing proof, which this letter affords of the soundness of the views with which you proposed the new Ecclesiastical arrangement for New South Wales, is most satisfactory to Her Majesty's Government, and must be highly gratifying to yourself. I have always anticipated that the effect of that Arrangement would be greatly to increase the means of religious Instruction in the Colony, in a manner certainly acceptable to the great body of the Colonists; and every communication, which I have received on the subject from parties most interested in it, has tended to confirm this expectation.

You are aware, from my Despatch of the 16th Inst., that five additional Clergymen of the Church of England have already been appointed by me to the Ecclesiastical Establishment of New South Wales on the recommendation of the Society for the Propagation of the Gospel, and that two Gentlemen have also been approved by me for similar appointments on their expected ordination taking place by the Bishop of London. I have lost no time in communicating to that Society the purport of the Despatch, which I have now received from you; and I have expressed to them my earnest hope that a sufficient number of additional Clergymen may be found willing to proceed at an early period to New South Wales, possessing those qualifications on which the Bishop so justly insists as essential to their future usefulness in the Colony.

It has also been intimated to the Society that accommodation will be reserved for such Clergymen either in Convict Ships, or in Ships conveying Emigrants to the Colony, should the parties

1837.
23 June.

Results
expected from
general church
act.

Despatch
acknowledged.

Proof of
efficacy of
general church
act.

Appointments
of additional
clergy.

Passages to be
provided for
clergy.

themselves desire it. The expense of such passage will of course be defrayed by the Clergymen out of the Allowance made to them by the Government for this purpose.

I have, &c.,
GLENELG.

1837.
24 June.

SIR RICHARD BOURKE TO LORD GLENELG.

(Despatch No. 53, per ship Thomas Lowry; acknowledged by lord Glenelg. 20th November, 1837.)

My Lord,

Government House, 26 June, 1837.

26 June.

The accompanying letter (with its eleven enclosures) contains another complaint addressed to your Lordship by Mr. John Lamb, who has of late so frequently wasted your Lordship's time and that of this Government by similar frivolous communications.

Transmission of letter from J. Lamb.

The facts of the present case are simply these. During my absence at Port Phillip, the P. Magistrate at Wollongong recommended through the P. Superintendent of Convicts the removal from the district of John Elliott, one of Mr. Lamb's assigned servants living on his farm in that neighbourhood. In the ordinary routine, this recommendation was acted on at once by the P. Supt. of Convicts, who issued his warrant to remove the convict in question to Sydney. Being habitually and very scrupulously cautious in exercising the authority of Government by withdrawing an assigned servant, I should probably have thought it proper, had the case been originally laid before me, to require more direct evidence of its necessity in this instance than was contained in the communication of the Police Magistrate.

Withdrawal of convict assigned to J. Lamb.

When the case was, however, brought before me on my return to Sydney, it had already assumed a different complexion. To return the Convict thus withdrawn to the district, whence the Magistrate's opinion of his mischievous character had already caused his removal, would evidently have had a tendency so pernicious, that it was not necessary to cause any further investigation to shew this course to be impolitic and improper. I therefore confirmed Elliott's removal, but directed that Mr. Lamb should receive another servant in his stead; and the correspondence forwarded by Mr. Lamb will sufficiently shew that I was not deterred by all the studied insolence of his communications from extending to him every possible accommodation and indulgence, consistent with the view which I took of the duty of the Government in the case. I found it necessary at last to direct the Colonial Secretary to decline answering any further letters on the subject in consequence of a threat on the part of Mr. Lamb to take legal proceedings against the public officers concerned in the removal of his servant. At this stage of the affair, the present application to Your Lordship is made.

Inability to return convict.

Convict assigned to J. Lamb in place of W. Elliott.

Refusal to reply to letters from J. Lamb.

1837.
26 June.

Policy adopted.

The foregoing statement contains the whole case, so far as I am concerned. The propriety of the course, I have adopted, does not rest, as your Lordship will perceive, on the conclusiveness of the representation of the Police Magistrate of Wollongong, but on the justice of the view I took of the matter under the form in which it first came before me.

At the same time, it will be satisfactory to Your Lordship to find that the Police Magistrate appears to have had sufficiently strong grounds for his recommendation. I enclose a Statement, which I have received from that Officer, accompanied by copies of depositions taken before him, which details at length the circumstances that led him to propose the removal of Elliott from the District of Illawarra, and fully justifies his previous recommendation.

I have, &c.,

RICHD. BOURKE.

[Enclosure No. 1.]

[A copy of the letter from J. Lamb is not available.]

[Enclosure No. 2.]

MR. A. HOLDEN TO COLONIAL SECRETARY THOMSON.

Sir,

Police Office, Wollongong, 20th June, 1837.

Understanding that the removal from this District of William Elliott, the assigned servant of Mr. Lamb, has occasioned much complaint and expostulation on the part of that Gentleman, I beg permission to lay before you, for His Excellency the Governor's information, a fuller statement than was contained in my letter to the Principal Superintendent of Convicts of my reasons for recommending such removal.

Mr. John Butler, with a wife and family is located at a sheep station of Mr. George Wellers about sixteen miles from Mr. Lamb's farm, and has repeatedly applied to me for protection against annoyance suffered by him from the assigned servants of Mr. Lamb. The dissensions, out of which these annoyances arose, are, I believe, connected with some dispute regarding the occupation of the Station on the part of Mr. Butler, which is regarded by Mr. Lamb as an intrusion on his runs.

In the view I have taken of the matter, I have not entered at all into this dispute, being influenced chiefly by the helpless state of Mrs. Butler, and her young family in so remote a situation during Mr. Butler's occasional absence in Sydney, and the more than ordinary claim she appeared to me to possess under these circumstances to the protection of the Magistrate.

William Elliott had been brought before me in October last for insulting Mrs. Butler. Of the deposition taken on this occasion, I annex a copy. He was also brought up in January last for

Statement by
A. Holden re
removal of
convict
assigned to
J. Lamb.

frequenting Mr. Butler's station contrary to his orders, of the deposition taken on which occasion I also annex a Copy.

1837.
26 June.

About the time of the latter complaint, Mr. Butler brought before the Magistrates several complaints against his own servants, whom he alleged to be encouraged in their misconduct by the servants of Mr. Lamb, particularly William Elliott, and, during Mr. Butler's absence in Sydney I received the annexed reports from my constables, respecting a robbery committed at Mr. Butler's house, and a malicious attempt to slaughter one of his Cows, and the apprehensions existed in his wife and family with reasons for suspecting William Elliott as either the prompter or perpetrator of the offences.

Statement by
A. Holden re
removal of
convict
assigned to
J. Lamb.

This report was followed up on my part with further enquiries, the result of which was that, although no *legal* evidence was elicited to substantiate Elliott's guilt, I felt the strongest impression, amounting almost to conviction connecting all that had passed with the previous positive evidence of Elliott's malicious feelings towards Mr. Butler, that Elliott was a party concerned, and that, so long as he remained in the District, Mr. Butler and his family would not be safe from a repetition of similar outrages.

With this conviction, I thought it my duty to recommend Elliott's removal, conceiving that the Government could with perfect equity control the assignment of a gratuitous service derived from its own bounty, when such an object of police rendered it expedient, and expecting, as I myself informed Mr. Lamb, I should recommend (in answer to an angry letter I received from him) that he would be allowed another servant instead of Elliott.

In conclusion, I will only remark, in order to meet any attempt that may possibly be made to strengthen Mr. Lamb's complaint by depreciating the character of Mr. Butler, that I have every reason to believe it unimpeachable, and, although struggling with difficulties in consequence of a loss of several thousand pounds in common with the other Capitalists who attempted to settle at Swan River, these misfortunes only appeared to give to his family a stronger claim to such protection as the Magistrate could afford them in their lonely situation.

I have, &c.,

A. HOLDEN, Police Magistrate,

[Sub-enclosure A.]

CAMDEN,
To Wit.

Shoal Haven, 27th October, 1836.

Before Alfred Holden, Esqr., J.P.

WILLIAM ELLIOTT, "Surry," 1834. Life, Assigned to Captain Lamb.

Depositions re
conduct of
W. Elliott.

MR. JOHN BUTLER, being duly sworn, deposes:—I superintend the farm of Mr. George Weller situated in the neighbourhood of Bungan Mountain; Captain Lamb has a Station about 16 Miles from me. It is superintended by Mr. David Blair a free emigrant. On Sunday, the 16th of this month, the said Mr. Blair came to my place accompanied by the prisoner at the bar. They rode up to my hut; and, after Blair's passing the usual compliments with me, he said "this is not a very neighbourly thing of yours." I inquired of him what he meant, when he muttered something which I did not distinctly understand about Mr. Lamb's Cattle Stations. I told him I did not think I was interfering with Mr. Lamb's runs, when prisoner observed that Mr. Lamb *had* had Cattle there, and, after some more words to that effect between us, he gave me the lie exclaiming relative to an assertion, which I had made, "its a lie." I reprimanded him and enquired his name; but he would

1837.
26 June.
Depositions re
conduct of
W. Elliott.

give me no answer, neither did Mr. Blair tell me what the Prisoner's name was, but they both rode off. I think, from Mr. Blair's manner on the occasion, prisoner was encouraged to behave as he did; there was a smile on Mr. Blair's face and he said nothing to check the prisoner.
JOHN BUTLER.

Sworn before me this 27th day of October at Shoal Haven.—ALFRED HOLDEN, J.P.

Questioned by the Prisoner. When I said I had had cattle on the Mountain, did you not say it was a lie—so giving me the lie first?—*Answer.* No.

When I was about leaving did you not say "go along you Puppy"?—*Answer.* No. I did not.

Prisoner states that he has nothing to say in his defence.

Guilty of Insolence.

ALFRED HOLDEN, J.P.

25 LASHES only as Mr. Blair's behaviour probably encouraged prisoner in his insolence.

ALFRED HOLDEN, J.P.

To be returned to service.

ALFRED HOLDEN, J.P.

[Sub-enclosure B.]

Shoal Haven, 28 January, 1837.

Before A. Holden, Esq., J.P., and Hy. Osborne, Esqr., J.P.

WILLIAM ELLIOTT, "Surry," 1834. Life, assigned to Capt. Lamb.

MR. JOHN BUTLER, having been duly sworn, deposes: The Prisoner is in the habit of coming to my stations, contrary to my orders. I cannot swear I have told him not to come more than once, but I have often seen him there since I gave him the order but had no opportunity of speaking to him.

When I spoke to him, the excuse for going near my station was that he couldnt. get over the swamp; but at that very time I was in the habit of crossing it every day on foot as well as on horseback. I have repeatedly complained to my own men of prisoner's going there.
JOHN BUTLER.

Sworn this 28th January, 1837.—A. HOLDEN, J.P.

CASE dismissed, prisoner being ordered not to go to Mr. Butler's huts, not even if he is passing near them whilst looking for or driving Cattle, and not to stay anywhere about there talking to Mr. Butler's men.

A. HOLDEN, J.P.

HENRY OSBORNE, J.P.

[Sub-enclosure C.]

[A] CONSTABLE SUTHERLAND TO MR. A. HOLDEN.

Sir,

Kiama, 12th January, 1837.

Reports re
robbery at
property of
J. Butler.

In conformity with your request, I went yesterday to Shoal Haven, etc., etc.

While at Shoal Haven yesterday, Mr. Butler's son came to inform Fawkes that one of his father's stations had been robbed of every thing portable, clothing and rations, and one of his milch cows stuck in the neck with some sharp instrument.* There was a Black minding the cattle. He had slept, and, when he awoke, he says he saw Elliott, that man of Captain Lamb's that was flogged for Mr. Butler,† driving the cow. Fawkes is to go there today.

I have, &c.,

WM. SUTHERLAND.‡

[B] CONSTABLE FAWKES TO MR. A. HOLDEN.

Sir,

Mr. Butler's House, 15th January, 1837.

I have to inform you that, on the 12th Instant, I was called to attend and protect Mrs. Butler and Family as a hut of her's had been robbed and a Cow cut in the neck by some evil disposed person. I made every enquiry into the same, but could find nothing out as proof, etc., etc.

On Saturday morning, I was awoke by the firing of a Gun at the Sheep pen, and went out to see what might be the matter there; during that time, two men came to the House, as the inmates supposed to rob it, but, on being called to by Mrs. Butler who said she would fire, they ran away. Mrs. Butler could not see them it being so dark, but could be heard distinctly by Miss Butler and the woman servant.

Sir, I am of opinion that Mrs. Butler's situation is dangerous; there is only two men here, and they are not to be trusted. Mr. Butler is in Sydney and might be some time before he returns, or have knowledge of his family's circumstances, etc. etc.

JOHN FAWKES, Constable.

* *Marginal note.*—By Elliott, it seems possible; but as a Black was the only individual who could afford even circumstantial evidence, it could not be brought home to Elliott.—A. HOLDEN, J.P.

† *Marginal note.*—i.e., upon the evidence of Mr. Butler.—A.H.

‡ *Marginal note.*—One of my Constables stationed at Kiama.—A.H.

[Enclosure No. 3.]

1837.
26 June.

MR. A. HOLDEN TO PRINCIPAL SUPERINTENDENT OF CONVICTS.

Sir, Police Office, Wollongong, 11 March, 1837.

I beg leave to state that a Mr. John Butler (overseer to a Mr. Weller of Sydney), resident thirty miles south of the Shoal Haven River, has for some time past been grievously annoyed by his free as well as his prisoner Servants, and that I believe the prisoner named in the margin* to have been an aider and abettor in the villainy, which has (and of late more particularly) given Mr. Butler so much annoyance. Mr. Butler has a wife and daughter with him in that out of the way quarter. I beg leave strongly to recommend that His Excellency be pleased to authorise you to issue immediately a warrant for Elliott's removal to Hyde Parke Barracks with a view to his assignment in some distant part of the Colony,

Recommendation for removal of W. Elliott.

And have, &c.,

A. HOLDEN, Police Magistrate.

SIR RICHARD BOURKE TO LORD GLENELG.

(Despatch No. 54. per ship Thomas Lowry; acknowledged by lord Glenelg, 30th December, 1837.)

My Lord, Government House, 27 June, 1837.

27 June.

The Convicts lately arrived by the "Prince George" having been landed in a very unhealthy state, so that a great number are still retained in Hospital as unfit for assignment, I thought it right, in addition to the usual inspection of the Journal of the Surgeon, to call for a special Report from that officer. Of this Report, I have now the honor to transmit a Copy, not for the purpose of expressing any doubt of the Surgeon's care and ability, but in order to request Your Lordship's attention to that part of it in which he objects to the substitution of Chocolate (or Cocoa) in the place of the oatmeal formerly issued. Mr. Bell speaks the opinion of many other competent Judges, with whom I have conversed on this subject, in giving a decided preference to the oatmeal; and I can state from my own observation that, since the Cocoa has been substituted, cases of Scurvy during the voyage and immediately after arrival have been reported to this Government, which were for a long time previously almost unknown.

Report re convicts per ship Prince George.

Objections to issue of chocolate vice oatmeal.

I have, &c.,

RICHD. BOURKE.

[Enclosure.]

SURGEON BELL TO COLONIAL SECRETARY THOMSON.

"Prince George." Convict Ship.

Sydney, 2nd June, 1837.

Sir, I had this day the honor of receiving your letter of the 30th Ultimo, desiring me to furnish a special report of the health of the Prisoners brought here in the Prince George, Convict Ship, of which I was Surgeon and Superintendent.

Report by T. Bell re sickness on convict ship Prince George.

* *Marginal note.*—The margin is blank in the copy available.

1837.
27 June.

Report by
T. Bell re
sickness on
convict ship
Prince George.

I beg leave to State that I have entered in my journal, which I sent to the Honble. the Colonial Secretary, the different cases of disease as they occurred.

The prisoners were embarked in the early part of December, 1836, when they came on board, they were generally in a low state of health, such as would arise from deficient nourishment, want of exercise, depressed Spirits, etc.; on proceeding to sea, we had had a long continuance of wet, cold and blowing weather, and, on the 25th of December, we lost both our anchors and cables in the Channel in a most terrific gale of wind, and were nearly driven on Shore and obliged to return again to port.

The Cold, wet and confinement between decks, to which they were subject, and the check, which exhalation gave to the action of the skin, produced such a state of debility and want of appetite on the greater number of them, that few could take the chocolate now supplied in Prison Ships for their morning and evening meal; many of the Prisoners, being represented as desperate characters, caused me to be more vigilant and not to allow so many on deck at a time in the early part of the voyage, as I had been in the habit of admitting in other Ships; but, whenever the weather would admit, one third of our numbers were on deck.

Every attention possible was paid to their comforts throughout the Voyage; the prisons kept clean, dry and well ventilated by the admission of air by windsails, and keeping the side scuttles open, when the weather would admit. Their bedding was wired and Shook generally twice a week, regular washing days appointed, and during the hot weather each man bathed in the morning, after which a Strict examination of their persons daily took place to discover the earliest Symptoms of disease. Their exercise was not unattended to, for I had the fore and main hatchway gratings put on, which gave a considerable space for amusement, the distance round the long Boat being 30 Yards and 1,760 Yards being an English mile, one third of the prisoners danced round the Boat to the music of our band, placed on the Spars over the Boat. When that party had taken a mile's exercise, they were succeeded by another, and so on in succession, until each had gone between 4 and 5 miles daily, independent of the exercise they took by dancing and amusing games; as soon as we got well clear of the Land, I took off every prisoner's Irons (all those from the Fortitude at Chatham were in double Irons, being of bad character), threw the prison doors open from 8 in the morning until 6 P.M., also the doors of the privies which are on deck, so that they had every indulgence that could be granted, Circumstanced as they were.

The lime juice Supplied on board was daily issued in the proportion of one ounce of lime juice, one ounce of sugar, and half a pint of water to each man daily; after dinner and in cold weather each man had a gill of Wine until his arrival in this Colony; notwithstanding all my exertions and anxiety to land those men in health, the wet, cold, and hardship, with the sea sickness they suffered in the early part of the Voyage, and the utter distaste they had for the chocolate (290 pounds surplus of which has been returned into store), coupled with the unfortunate circumstance of the ship having been struck with a *Sea* off Cape Howe on the 5th Ult. at 11 at night, when all the starboard bed places were knocked down, not leaving two boards together, the water covering the bottom boards of the bed places of the lee side of the deck, it is

needless for me to attempt to explain the state of consternation and dismay those men were thrown into and the condition of their bedding, which was completely saturated with salt water and which could not be got dried for several days; indeed we were baling the water out of the prison and Hospital all the night; all those unfortunate Circumstances aided very materially to keep up the disease that has so largely shown itself, but it was not confined to the prisoners alone in this Ship, for many of the Ship's Company, both Young and old, were afflicted and some of them still remain in the sick list.

1837.
27 June.

Report by
T. Bell re
sickness on
convict ship
Prince George.

I enclose the character given me of some of the prisoners that I had the charge of, with a Letter from the Admiral's Secretary at Sheerness to put me on my guard to prevent any attempt to escape.

I hope this outline of cause and effect will answer the purpose desired.

I have, &c.,

THOS. BELL, Surgeon and Superintendent.

LORD GLENELG TO SIR RICHARD BOURKE.
(Despatch No. 334, per ship James Pattison.)

Sir,

Downing Street, 30 June, 1837.

30 June.

I have the honour to acquaint you that I have, on the recommendation of the Committee of the General Assembly of the Church of Scotland on Colonial Churches, sanctioned the appointment of the Revd. W. McIntyre and of the Revd. G. McFie to the Establishment of the Presbyterian Church in New South Wales.

Appointments
of clergy for
Presbyterian
church.

The undermentioned Gentlemen having also been recommended by the Committee of the General Assembly will also shortly proceed to Australia; and, altho' I am unable at this moment to state to which of the two Colonies they will respectively be destined, I think it right to mention their names to you in order that, if any of them should arrive in New South Wales before any other communication has been made to you relative to their appointments, you may know that they proceed with the sanction of Government:

The Revd. W. Hamilton; The Revd. J. Tait; The Revd. J. Gregor; The Revd. J. Forbes.

I have, &c.,

GLENELG.

COMMENTARY

ON

DESPATCHES

TO AND FROM SIR RICHARD BOURKE,

JULY, 1835—JUNE, 1837.

Note 1, pages 1 and 425.

The Rule.

During his administration of the colonies as secretary of state, Earl Bathurst frequently received petitions, memorials and complaints, addressed to him and forwarded direct from residents in New South Wales. As it was impossible to give decisions upon many of the questions involved without reference to the governor, he established the rule that all communications to the secretary of state from colonists in New South Wales should be forwarded through the governor to enable the governor at the same time to submit a report.

Note 2, page 6.

My Dispatch of the 12th Ultimo.

The reference was probably to the despatch, dated 12th July and numbered 19. It is also probable that there was an error in dating and numbering the despatches on pages 6 and 24.

Note 3, page 9.

The annexed copy of the Charter.

A copy of the charter is not preserved with the original of this despatch and its enclosures. The charter was dated 21st May, 1834.

Note 4, page 15.

A Letter.

This letter referred to the chartered bank at New Brunswick and the "lieut. governor" was the lieut.-governor of that province.

Note 5, page 19.

The recent Act of Parliament.

This was the statute 4-5 Wm. IV, c. xciv, entitled "An Act to enable His Majesty to invest trading and other Companies with the Powers necessary for the due Conduct of their Affairs, and for the Security of the Rights and Interests of their Creditors," which was passed on the 15th of August, 1834.

Note 6, pages 22, 23 and 55.

The Petition.

A copy of this petition will be found on pages 540 and 541, volume XVII.

Note 7, page 23.

Those Petitions.

These were the petitions, which were presented to Sir Richard Bourke and the legislative council from residents in the Hunter river district and at Newcastle and Port Stephens, and were printed in the *Votes and Proceedings* of the council for 22nd August, 1833 (*see* also despatch dated 15th January, 1834, page 325 *et seq.*, volume XVII).

Note 8, page 26.

One Deputy Inspector.

By the appointment of the deputy inspector, the medical administration in the colony was changed. Prior to his appointment, the colonial surgeons and the medical establishment generally were under the control of a principal surgeon, who framed the necessary regulations and was responsible only to the governor as administrator of the colonial government. After his appointment, the whole colonial medical staff was assimilated to the military establishment, and was amenable to the rules and regulations for the management of general military hospitals on colonial stations, under a military officer responsible to the governor as commander-in-chief.

Note 9, page 37.

The loss of the ship "Neva."

A full report on the loss of the ship *Neva* was submitted by Sir Richard Bourke in a despatch dated 7th October, 1835 (*see* page 135 *et seq.*).

Note 10, page 39.

Also pages 159, 287, 356, 375 and 486.

An expedition.

On this expedition, T. L. Mitchell was accompanied by R. Cunningham as botanist, J. G. Larmer as assist. surveyor, J. Souter as medical attendant, and twenty men as bullock-drivers, servants, etc. On the 8th of April, 1835, he left Boree (Buree), a cattle station belonging to T. Raine about six miles from the modern town of Cudal and a little north of the Canobolas mountains near the modern town of Orange. From thence, he travelled to the Bogan river in the neighbourhood of the modern town of Peak Hill. He then followed the Bogan river to its junction with the Darling, and the Darling river to the neighbourhood of the modern town of Menindee, which he reached on the 9th of July. After resting for three days, he returned over practically the same course, and arrived at Boree in advance of the main party on the 14th of September.

Note 11, page 40.

The Instructions.

These instructions, containing seventeen clauses and dated 26th March, 1835, will be found in a volume in series V. A copy of them was printed in the issue of the *Government Gazette*, dated 21st January, 1837.

Note 12, pages 40 and 257.

The site of the College.

This site is now occupied by the Sydney grammar school in College-street. The central portion of the modern school buildings is the original building of the Sydney college.

Note 13, page 40.

The answer lately given by Lord Stanley.

The "answer" was contained in the despatch of the right hon. E. G. Stanley, dated 14th May, 1834 (*see* page 431, volume XVII).

Note 14, page 41.

Her Son's native place.

Governor Macquarie's son was born at Sydney on the 28th of March, 1814. His mother was Macquarie's second wife. His first school was at Macquarie fields under the tuition of the Reverend Thomas Reddall.

Note 15, page 45.

His plan.

This "plan" was the beginning of the system of water conservation, now practiced throughout the continent of Australia. Thomas Rose's plan was adopted by many of the larger settlers. A good example in excellent preservation is still extant at Throsby park, Moss Vale, and a second example in bad order may be seen at Regentville near Penrith, which was formerly the property of Sir John Jamison.

Note 16, page 48.

Also page 247.

Australian Patriotic Association.

The object of the "Australian Patriotic Association" was "to obtain for the free inhabitants of New South Wales a *bona fide* representative government."

On the 28th of August, 1834, a public meeting of free inhabitants was held in Sydney, when it was decided to present a petition to the house of commons relating to the appropriation of the land revenues (*see* page 496 and note 128, volume XVII). A "petition committee" was appointed with Sir John Jamison as chairman, and this committee opened negotiations with Henry L. Bulwer, a member of the house of commons. In reply to the first letter, Bulwer wrote and suggested the formation of an association to provide funds for advocacy in England to the amount of £1,500 *per annum*.

A public meeting was convened to consider Bulwer's letter on the 29th of May, 1835, by the following magistrates:—Sir John Jamison, R. Johnstone, J. Bingle, P. Macintyre, J. Hawken, J. Wighton, E. Lockyer and T. Wills. At this meeting the following resolutions were proposed and carried:—

"That the Meeting, coinciding in the measures proposed by Mr. Bulwer, do pledge themselves to carry the same into effect, and, to that end, do cordially accept the disinterested and friendly offer, named by him, to act as our Colonial Parliamentary advocate" (moved by Sir John Jamison, seconded by W. C. Wentworth).

"That it is requisite, agreeably with Mr. Bulwer's suggestion, that an Association of the Colonists shall be formed to watch over the political and general interests of the community, whose duty it shall be to carry on correspondence with the Parliamentary Advocate, in order that an authentic exposition of the real state of the Colonial affairs may be from time to time exhibited before the British House of Commons; and that such Association shall consist of all such persons, as may subscribe annually the sum of one pound and upwards; and that from amongst the Members of the Association, who shall subscribe five pounds and upwards, shall be elected a Directing

Committee; and that, in all elections for the Directing Committee, every member shall have one vote for every one pound subscription, but shall be limited to five votes in all. And further that each subscriber shall sign an obligation to pay annually, for the term of four years, such sum as he shall affix opposite his name, and that such subscription be forthwith entered into" (moved by S. Stephen, seconded by J. B. Bettington).

"That an Agent shall be appointed by the Members of the General Committee, who shall be sent from this Colony and whose duties it shall be to render every information and assistance to the Parliamentary Advocate in furthering the objects of the Committee; and that he shall maintain an office for the use of such Parliamentary Advocate; and that the appointment of such Agent shall be and continue for the term of four years. And there shall also be elected a Secretary of the Committee, resident in Sydney, appointed to carry on, under the superintendence of the Committee, the correspondence with the Parliamentary Advocate and the Agent" (moved by Revd. R. Mansfield, seconded by W. Hutchinson).

"That, to enable the Committee to carry their measures into operation, His Excellency the Governor be requested to lay a Bill before the Legislative Council for the appropriation of a sum not exceeding £2,000 *per annum* from the Colonial Revenue, to defray the expenses attendant upon the several appointments alluded to, and authorising such appointments to be elected by the Colonists; which said Bill shall be prepared by the Committee, and, when such expenses shall be paid by the Public Treasury, the aforesaid subscriptions shall cease" (moved by D. Poole, seconded by Dr. Bland).

"That the Colonists of Van Diemen's Land be requested to coalesce with the Meeting in furthering the objects proposed" (moved by R. Hipkiss, seconded by P. Macintyre).

In seconding the first resolution, W. C. Wentworth stated that a deed had been prepared for signature, whereby subscribers bound themselves to pay annually for four years the sum placed against their names. Wentworth at the same time promised £50 annually.

As the result of this meeting, the "Australian Patriotic Association" was formed with Sir John Jamison as the first president; T. P. Macqueen, W. C. Wentworth and J. Mackaness as vice-presidents; Sir John Jamison, W. C. Wentworth and W. Hutchinson as trustees; and E. S. Hall as secretary. The sum of £1,200 was raised as an annual subscription for four years under the bond, and H. L. Bulwer was appointed parliamentary advocate.

This association had vast influence in the subsequent development of the constitution.

Note 17, page 52.

The malady . . . which I felt myself compelled . . . to report.

The report was contained in Governor Bourke's despatch, dated 19th September, 1832 (*see* pages 745 and 746, volume XVI).

Note 18, page 56.

An Order of the House of Commons.

A copy of this order is not preserved with the original of this despatch at government house, Sydney. On the 16th of July, 1835, the only order in reference to the Australian colonies was "that there be laid before this House Returns of the Population, Revenue, Exports, Produce, Stock, etc., of the Settlements in *West Australia* for the year 1834."

Note 19, page 65.

Letters.—Copies.

Two only of these letters are available, viz., Governor Bourke to lord Fitzroy Somerset dated 18th June, 1832, and lieutenant-governor Arthur to Governor Bourke dated 3rd March, 1832 (*see* page 146 *et seq.*, volume XVII).

Note 20, pages 66 and 67.

A Subscription Library.—This Act.—Two small allotments.

The Australian subscription library was formed at a meeting at the Sydney hotel on the 3rd of February, 1826. There were ten persons present at the meeting, viz., T. de la Condamine, aide-de-camp to the governor; Revd. W. Cowper; H. G. Douglass, clerk of council; W. Lithgow, auditor-general; J. Mackaness, sheriff; F. N. Rossi, superintendent of police; W. Carter, master of the supreme court; and A. Kinghorne, J. Brown and E. King. The entrance fee was fixed at five guineas, and the annual subscription at two guineas. Within a fortnight, a general meeting was held, and rules and regulations were drawn up and approved at a subsequent meeting on the 16th of March. Members were elected by ballot, and one black ball in four excluded a candidate for membership. In April, 1826, a first order for books was sent to England. This library was merged subsequently into the present public library of New South Wales.

The act was passed on the 29th of July, 1834, and contained twenty-seven clauses, whereby the administration of the library was regulated.

The allotments granted to the library are detailed in note 62, volume XVII.

Note 21, page 67.

The Colonial Museum.

This museum formed the nucleus of the present Australian museum at Sydney. It was first known as the colonial museum, but in the year 1835 it acquired its present name. It was established in the year 1828 for the collection of "birds and other subjects of natural history." The first zoologist was W. Holmes; but his colonial career was a short one, as he died at Moreton bay in August, 1830.

Note 22, page 68.

The claims.

Instructions for the settlement of these claims were given by Sir George Murray in a despatch, dated 9th June, 1830 (*see* page 544 *et seq.*, volume XV). Governor Darling's decision will be found on page 6, volume XVII. The details of the origin of the claims were reported by Sir Richard Bourke in his despatch, dated 10th May, 1836 (*see* page 414 *et seq.*).

Note 23, page 70.

A Plan and Estimate.

A copy of this plan and estimate is not available. The buildings were demolished to erect the present central railway-station at Sydney.

Note 24, page 71.

In the form of Resolutions.

The practice adopted for the passing of the estimates was by moving a separate resolution, agreeing to the amount under each head, during the consideration of the estimates in committee of the legislative council. These

resolutions were all in similar form. The following was the first resolution:—
“Resolved, That a sum not exceeding £332 0s. 6d. be appropriated to defray the expense of the Establishment of His Excellency the Governor for the year 1836.”

Note 25, page 72.

The Minute.—Late Instructions.

The minute of the governor to the legislative council, “explanatory of the several heads of Expenditure, and of Ways and Means, as estimated for the Year 1836,” was a statement similar to the speeches made by treasurers in the Commonwealth and state parliaments, when presenting their annual financial statements. This minute by Sir Richard Bourke fills three and three-quarter folio pages in the *Votes and Proceedings*.

The instructions were contained in the enclosure to the despatch from the right hon. T. Spring Rice, dated 15th November, 1834, and numbered 39 (*see page 577 et seq.*, volume XVII).

Note 26, page 79.

The Diocese of Calcutta.

The colony of New South Wales had been a part of the diocese of Calcutta from its foundation; and, by the twelfth article of the instructions, dated December, 1824, for the erection of an archdeaconry in the colony, it was enacted that all questions as to the conduct of the clergy should be referred to the bishop of that diocese (*see page 421*, volume XI).

Note 27, page 79.

The act authorising the last loan.

This was the act of council, 5 Wm. IV, No. 18, entitled “An Act for appropriating the Sum of Fifty thousand pounds as a temporary Loan to enable His Majesty’s Commissariat Department to carry on the Military and Convict Services of New South Wales,” passed on the 25th of October, 1834.

Note 28, page 81.

The provisions of a local act.

By section 6 of the act of council, 10 Geo. IV, No. 7, it was provided that the justices in the districts of Sydney, Parramatta, Windsor, Campbelltown and Maitland respectively should meet, on the first Tuesday in the month of November in each year, and elect a chairman for the quarter sessions for the ensuing year.

Note 29, page 81.

The certificate.

A copy of this certificate will be found on page 622, volume XVI.

Note 30, page 88.

The Pamphlet.

The details of this pamphlet will be found in note 138, volume XVII.

Note 31, page 100.

A Committee.

On the 30th of July, 1835, a motion was carried by the house of commons, “That a Select Committee be appointed to inquire into the Conduct of General Darling while Governor of New South Wales, particularly with

reference to the grants of Crown Lands made by him, his treatment of the Public Press, the Case of Captain Robison and the New South Wales Veteran Companies, and the alleged instances of cruelty towards the soldiers Sudds and Thompson and other persons, and to report thereon to the House." Eight days later, a committee of thirty-two was appointed, which, after taking evidence, submitted a report on the 1st of September, 1835.

Note 32, page 104.

Protests.

The system of protests was established under the instructions, contained in a circular despatch from viscount Goderich, dated 4th March, 1832. A copy of this despatch is not available, but the following extract from it was printed in the *Votes and Proceedings* of the legislative council:—

"It is His Majesty's desire that, before the expiration of the month of June in each year, you submit to the Legislative Council in your Government such an Estimate, as you may think necessary, of the whole of the Expenditure, or of such as may have been already fixed under the sanction of His Majesty's Government, which is intended to be charged on the Colonial Revenue for the year then next ensuing. If this Estimate shall meet with the concurrence of a majority of the Council, it will be passed in the form of an Ordinance; and you will transmit it to me by the earliest opportunity for His Majesty's approval and confirmation. It will be competent, at the same time, to any minority of the Council, who may have dissented from the Estimate and from any items of it, to record the grounds of their dissent in the Minutes of the Council, and it will be your duty, should you be required so to do by them, to transmit an Extract Copy of such Minutes, together with the Copy of the Estimate to me, for the consideration of His Majesty's Government.

"Should the Estimate, which you propose to the Council, be rejected by a majority of that body, you will request that you be furnished by those, who dissent from your Estimate, with such a one as they would propose to substitute; and, should you still give the preference to your own, you will be pleased to transmit both Estimates to me, together with the reasons which yourself, and any Councillors who may agree with you, may have to allege in support of your own Estimate, and the reasons stated by the majority of the Council opposed to you in favor of theirs."

Note 33, pages 72 and 105.

The Petition.

The petitioners, in protesting against the appropriation of the sum of £45,000 for the maintenance of the police and gaol establishments, stated that the proposed aggregate amount of expenditure of the colonial government would greatly exceed the estimated revenue, unless the "funds arising from the sale of waste lands were appropriated to supply the deficiency." They thought that these funds should be "appropriated exclusively for the importation of virtuous and industrious Emigrants," and that the colony would sooner be enabled to meet "the entire expenses of its internal Establishments" by "the introduction of a virtuous and industrious population."

Note 34, page 106.

Mr. James Stephen.

James Stephen was the third son of James Stephen, member for Tralee in the house of commons, and was the nephew of John Stephen, judge of the supreme court in New South Wales. He was born on the 3rd of January,

1789, and was educated at Trinity college, Cambridge. He was called to the bar at Lincoln's Inn in 1811, and took the degree of LL.B. in 1812. He made a special study of colonial laws; and, in 1813, he was appointed law clerk to the colonial office, his duties being to examine and report on the acts of the colonial legislatures. At the same time, he was allowed private practice. In 1822, he suffered a severe illness from overwork, and in consequence was induced, in 1825, to accept the position of permanent counsel to the colonial office and the board of trade. In 1834, he became an *assistant under secretary* for the colonies, and, in 1836, permanent under secretary. His vast knowledge of colonial law associated with his official position made him the "uncrowned king of the colonies." In 1847, his health again broke down from overwork, and he resigned office, and received the honours of K.C.B. and a privy councillorship. For many years he had been a contributor to the *Edinburgh Review*, and his articles had proved his wide knowledge of history. In 1849, he was appointed regius professor of modern history at Cambridge. He died on the 14th of September, 1859.

Note 35, page 112.

At the Cape.

W. W. Burton arrived at the Cape of Good Hope in October, 1827, and assumed his duties as second puisne judge in that colony on the 1st of January, 1828. R. Bourke assumed the government as lieutenant-governor of the eastern district and acting governor of the Cape of Good Hope on the 8th of February, 1826, and held the administration until the 9th of September, 1828.

Note 36, page 131.

A Memorial.—The resolution.

The memorial and resolution were printed in the *Votes and Proceedings* of the legislative council. The memorial was from the lay-members of the committee of St. Mary's church in the name of the Roman Catholics of New South Wales, and the resolution was passed by the council on the 22nd of September, 1835.

Note 37, page 132.

The New Regulations.

These were the regulations forwarded by Sir Richard Bourke with his despatch dated 26th June, 1835 (see page 750 and also page vii, volume XVII).

Note 38, page 149.

The Whaling Station Coast of New Holland.

At this period, extensive whaling and sealing were carried on off the southern coast of New Holland from Kangaroo island to King George's sound.

Note 39, page 153.

The South-Western Coast.

On the copy of this despatch preserved at government house, Sydney, the following note is written:—"This should be South not South Western. The blunder has been pointed out to Mr. Hay and correction requested by letter, dated 21 December, 1835." No copy of a letter to R. W. Hay, bearing this date, is available.

Note 40, pages 154 and 387.

A Treaty.—The tract ceded.

The "treaty," so called, consisted of two deeds, each dated 6th June, 1835, and concluded between John Batman on the one part and on the other part eight aboriginals of Victoria, three of whom were brothers and were described as "principal chiefs," and five described as chiefs of "a certain Native Tribe called Dutigallar."

By one deed, five hundred thousand acres, known as Dutigalla, were conveyed to John Batman for and in consideration of twenty pairs of blankets, thirty tomahawks, one hundred knives, fifty pair scissors, thirty looking-glasses, two hundred handkerchiefs, one hundred pounds of flour and six shirts, and further subject to the payment of a yearly tribute of one hundred pairs of blankets, one hundred knives, one hundred tomahawks, fifty suits of clothing, — looking-glasses, fifty pair scissors, and five tons flour. The land thus conveyed lies to the north-east, north, west and south-west of, and included the modern city of Melbourne. It was described as "that Tract of Country, situate and being at Port Phillip, running from the branch of the River at the top of the Port, about 7 miles from the mouth of the River, Forty miles North East, and from thence West Forty miles across Iramoo Downs or Plains, and from thence South South West across Mount Vilanarnartar to Geelong Harbour at the head of the same." The river mentioned is now known as the Yarra.

By the second deed, one hundred thousand acres, known as "Geelong" were conveyed by the same chiefs to John Batman for and in consideration of twenty pair of blankets, thirty knives, twelve tomahawks, ten looking-glasses, twelve pair scissors, fifty handkerchiefs, twelve red shirts, four flannel jackets, four suits clothes and fifty pounds of flour, and further subject to the payment of a yearly tribute of fifty pair of blankets, fifty knives, fifty tomahawks, fifty pair scissors, fifty looking-glasses, twenty suits of slops or clothing, and two tons of flour. This land extended from the southern shore of Geelong harbour, and included the whole peninsula of land on the western side of the entrance to Port Phillip.

Note 41, page 154.

Part of the Territory.

By his commission (*see* page 837 *et seq.*, volume XVI), Sir Richard Bourke was given jurisdiction over all that part of the continent of Australia lying to the east of the one hundred and twenty-ninth meridian of east longitude. This area comprised the modern states of Queensland, New South Wales, Victoria and South Australia, and the northern territory of the Commonwealth.

Note 42, pages 154, 379 and 386.

A Proclamation.

The proclamation was as follows:—

"Whereas it hath been represented to me that divers of His Majesty's subjects have taken possession of vacant Lands of the Crown, within the limits of this Colony, under the pretence of a treaty, bargain, or contract, for the purchase thereof, with the Aboriginal Natives; Now therefore, I, the Governor, in virtue and in exercise of the power and authority in me vested, do hereby proclaim and notify to all His Majesty's subjects and others whom it may concern, that every such treaty, bargain and contract with the Aboriginal Natives as aforesaid for the possession, title or claim to any Lands,

lying and being within the limits of the Government of the Colony of New South Wales, as the same are laid down and defined by His Majesty's Commission, that is to say, from the Northern Cape or extremity of the coast called Cape York, in the latitude of ten degrees, thirty-seven minutes south, to the southern extremity of the said Territory of New South Wales, or Wilson's Promontory, in the latitude of thirty-nine degrees twelve minutes south, and embracing all the country inland to the westward as far as the one hundred and twenty-ninth degree of east longitude, reckoning from the meridian of Greenwich, including all the Islands, adjacent in the Pacific Ocean within the latitude aforesaid, and including also Norfolk Island, is void and of no effect against the rights of the Crown; and that all Persons, who shall be found in possession of any such Lands as aforesaid, without the licence or authority of His Majesty's Government for such purpose first had and obtained, will be considered as trespassers, and liable to be dealt with in like manner as other intruders upon the vacant lands of the Crown within the said Colony.

"Given under my Hand and Seal at Government House, Sydney, this 26th Day of August, 1835.

"RICHARD BOURKE."

Note 43, page 157.

A Township.

About the year 1835, the term "township" was becoming modified. Formerly it was applied to an area of land corresponding to that included in a modern shire, and contained one or more towns. But the term was modified to include only the area of land occupied by a single town.

Note 44, page 158.

The facts.

Hamilton Hume received a free grant of two thousand five hundred acres of land for his services in the first expedition of C. Sturt.

Note 45, page 160.

Richard Cunningham . . . has not since been heard of.

The murder of R. Cunningham was detailed by H. Zouch in his report after the discovery of the remains (*see* pages 236 and 237).

Note 46, pages 161 and 708.

The Report.

On the 18th of May, 1835, the legislative council appointed a committee, consisting of F. Forbes, K. Snodgrass, W. Lithgow, R. Jones and J. Blaxland, "to enquire into and Report the extent to which Immigration from the United Kingdom to this Colony has been carried, since the appropriation of the Revenues arising from Crown Lands to that Object, and the best means of promoting the introduction of persons of both sexes, of good moral character and industrious habits." Twenty-seven witnesses were examined by the committee on twelve days. The minutes of evidence were ordered by the council to be printed on the 16th of June, 1835, and the committee presented their report on the 18th of September following. The report contained a history of the origin and progress of assisted immigration, and suggestions for improvements in management of it.

Note 47, page 164.

The despatch.

This despatch was written by under secretary Horton and dated 25th October, 1824 (*see* page 381, volume XI).

Note 48, page 169.

The Augustus Cæsar sailed in Company.

This statement was erroneous; *see* the letter from W. Wiseman, master of the ship *Augustus Cæsar*, dated 1st April, 1836, on pages 434 and 435.

Note 49, pages 174, 178 and 347.

The land leased to Mr. Palmer.

A copy of the deed of lease to John Palmer will be found on page 342, volume VIII. The land leased was in the neighbourhood of the modern conservatorium of music, and the windmill was erected near the present site of the statue of Governor Phillip (*see* also pages 18 and 19, volume XV).

Note 50, pages 175, 177 and 347.

Letter.—The Governor's proclamation.

Copies of the letter and proclamation will be found on page 79 *et seq.*, volume XVII, and pages 19 and 20, volume XV.

Note 51, page 176.

Grants in fee.

A note on the growth of the system of land tenure in the town of Sydney will be found numbered 162 in volume XIV. A minute by Governor Darling, dated 1st May, 1829, on the problems involved will be found on pages 18 and 19, volume XV.

Note 52, page 177.

Submitted by General Bourke.

Governor Bourke reported on the claim in a despatch, dated 28th February, 1832 (*see* page 538 *et seq.*, volume XVI), which was acknowledged by viscount Goderich in a despatch dated 22nd March, 1833 (*see* page 53 *et seq.*, volume XVII).

Note 53, page 178.

A full report.

The decision in this cause created anxiety amongst many holders of property in the town of Sydney, although the question of titles (*see* note 162, volume XIV) had been determined by a proclamation of Governor Darling in 1829 (*see* pages 19 and 20, volume XV).

Note 54, page 181.

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 of Tasmania, and secondly of civil commandant at Port Dalrymple in Tasmania (*see* note 48, volume II, and page 282, volume IV. series III).

Note 55, page 183.

The New Pass.

This was the main western road in its descent of Mount Victoria, which superseded the roads first constructed at or near Mount York (*see* page 138 *et seq.*, volume XVI).

Note 56, page 207.

The Order-in-Council.

A copy of this order-in-council will be found on page 34, volume XVII.

Note 57, pages 209 and 291.

Lord Ripon.

Viscount Goderich was created earl of Ripon on the 13th of April, 1833.

Note 58, page 211.

The foundations of a large church.

These foundations were laid by Governor Macquarie at the corner of Bathurst and George streets, Sydney, but the erection of the church was discontinued at the suggestion of the commissioner of inquiry J. T. Bigge. The foundation-stone was within the alignment of the modern George-street, and was subsequently removed; and a church was erected some yards west of its site, and now is known as St. Andrew's cathedral.

Note 59, page 223.

Ill-founded petition.

A copy of this petition will be found on pages 540 and 541, volume XVII.

Note 60, pages 226 and 227.

The period.—The duration of the Jury Act.

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. The jury act was the act of council, 4 Wm. IV, No. 12, passed in 1833. This act was extended for one year by the act, 5 Wm. 4, No. 25 (*see* pages 213 *et seq.* and 742, volume XVII).

Note 61, page 227.

The circumstances.

C. F. Sheppard or Shepherd was superintendent on the property of Catterall at "Maneroo" in the county of Argyle. The property was attacked by three bushrangers, and a strenuous fight ensued in which Sheppard strongly resisted the bushrangers and was badly wounded on the 14th of December, 1834. Three men were tried on the 1st of May following, one of whom pleaded guilty, one was found guilty and one not guilty.

Note 62, page 228.

Also pages 392, 396 and 437.

Report of an Address.

This report appeared in the issue of the *Sydney Monitor*, dated 21st November, 1835, and filled nearly three columns of small type.

Note 63, pages 230 and 684.

Squatters.

The term "squatter" first came into use about the year 1835. It was first applied to persons, engaged in the depasturing of live stock on crown lands lying beyond the limits of location. Such occupation was unauthorised, and many of these squatters indulged extensively in cattle and sheep stealing. The term thus acquired an obnoxious meaning amongst honest men. During the last half of the nineteenth century, the meaning of the term changed, and it was applied to a useful and important class of the community, who held large areas, principally under a crown lease, for the purpose of legitimate grazing pursuits.

Note 64, pages 232 and 360.

The Ship Hive . . . was run ashore.

The ship *Hive* ran on a sandy beach to the southward of Jervis bay before daylight with all sails set. Every effort was made to refloat her without success, and accordingly the prisoners and some of the cargo were landed. When the ship *Zebra* arrived, the specie was placed on board of her with the greater part of the cargo.

Note 65, page 235.

The spot.

This spot was situated in some scrub since known as Cunningham's scrub on the Bogan river, south-west from the modern town of Nevertire, and in the neighbourhood of Tabratong.

A stone bearing the following inscription has been erected over the grave of R. Cunningham:—

"Richard Cunningham, Government Botanist of this Colony, Attached to an exploring expedition under the command of Major Mitchell, Surveyor General, wandered in his enthusiasm for botanical investigations from his companions, and, losing himself in this locality of the Bogan River, fell into the hands of the aboriginals, by whom he was unfortunately killed about 25th of April, 1835, in the 42nd year of his age.

"This tablet is erected to his memory by a vote of the Parliament of New South Wales through the C.C. Lands by S. R. Daniel, C.C.L., Wellington District."

Note 66, page 239.

A printed copy of these Acts.

These acts will be found in volume I of the *Public General Statutes of New South Wales*, printed at Sydney by Thomas Richards, government printer, 1861.

Note 67, page 242.

Recent grant.

This was the grant to the Australian agricultural company in the neighbourhood of the modern town of Tamworth. The land was transferred subsequently to the Peel river estates company, and a part of it is now known as Goonoo Goonoo.

Note 68, page 242.

This Act.

This act was entitled "An Act to remove doubts respecting the power of the Supreme Court of New South Wales to do and perform certain acts, which are required to be done and performed by His Majesty's Courts in England."

Note 69, page 251.

The Colonial Newspapers.

The election for chairmanship of the quarter sessions caused great excitement, and, in the *Sydney Gazette* alone, the leaders in four consecutive issues were devoted to the subject. Several letters and articles appeared in other issues.

Note 70, page 251.

A Member of the Legislative Council.

The member was Richard Jones. The "assertion" will be found on page 220.

Note 71, page 252.

List of Persons.

Sir John Jamison was the son of Thomas Jamison, who arrived in the colony in the first fleet as surgeon's first mate on H.M. ship *Sirius* and afterwards became principal surgeon of the colony. He was created a knight of the order of Gustavus Vasa by Charles XIII of Sweden for his services during an outbreak of cholera and dysentery in the Swedish army in 1807, when he was a surgeon in the English navy on service in the Baltic sea. He inherited a large estate near Penrith, N.S.W., from his father (*see* note 14, volume XV). In a despatch, dated 10th September, 1826, to Governor Darling (*see* page 563, volume XII), Earl Bathurst ordered that on no account whatever should he be employed in any civil situation under the colonial government on account of groundless charges, made by him in September, 1822, against the administration of the convict establishment at Emu plains (*see* page 818 *et seq.*, volume XI). Earl Bathurst's decision was confirmed by the right hon. W. Huskisson in November, 1827, and by Sir George Murray in April, 1830 (*see* page 615, volume XIII, and page 444, volume XV).

Thomas Potter Macqueen was a member of the house of commons. In October, 1823, Earl Bathurst ordered him a grant of 10,000 acres with a reserve of 10,000 acres adjoining. Possession was taken by his agent in 1824. He invested about £20,000 on his estate, which was managed by agents until his arrival in the colony in the year 1834.

J. K. McKenzie, J. T. Leahy and T. Shadforth had arrived with their regiments on service in the colony, and had remained as settlers.

William Charles Wentworth was the son of D'Arcy Wentworth, who had been principal surgeon and superintendent of police at Sydney. In the year 1835, he was a barrister with radical political views in course of modification.

Roger Therry was the most prominent lay-member of the Roman Catholic church in the colony.

John Blaxland arrived in the colony as a free settler in the year 1806. He participated in the deposition of Governor Bligh in 1808. He was frequently involved in disputes with the government. In later years, his radical tendencies were modified, and he was nominated as one of the unofficial members of the legislative council, appointed by royal warrant, dated 30th January, 1829.

Hannibal Hawkins Macarthur and James Macarthur were a nephew and a son of John Macarthur of Camden.

William Cox, jr., and George Cox were sons of William Cox, who arrived in the colony with the New South Wales corps.

William Edward Riley was the son of Alexander Riley, who was a merchant in Sydney and one of the contractors for the erection of the Sydney hospital in 1810-16.

Philip Parker King was the son of Governor King.

William Ogilvie was a naval settler.

Robert Campbell, jr., was the son of Robert Campbell, the first merchant to settle in the colony.

William Lawson was formerly a lieutenant in the New South Wales corps, and had discovered, with G. Blaxland and W. C. Wentworth, the passage of the Blue mountains.

Charles Sturt was a retired captain of the 39th regiment and a distinguished explorer.

Charles Throsby had inherited the estates of his uncle, Charles Throsby, sr., who had been in the service of the government and had explored the country to the west of the Illawarra district.

George Palmer was the son of John Palmer, formerly commissary of the colony.

Francis Stephen was a son of John Stephen, first puisne judge of the supreme court.

Andrew Gibson was a surgeon, settled near the site of the modern city of Goulburn.

George Macleay was a son of Alexander Macleay, the colonial secretary, and had accompanied C. Sturt in his expedition to lake Alexandrina.

Note 72, page 253.

A Work.

This book was entitled *A Treatise on Roads, wherein the Principles, on which Roads should be made, are explained and Illustrated by the Plans, Specifications and Contracts, made use of by Thomas Telford on the Holyhead Road*, by the right hon. Sir Henry Parnell, bart.

Note 73, pages 253, 255, 631 and 632.

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 74, page 260.

The Despatches.

These despatches were dated 2nd October, 1833 (*see* page 233 *et seq.*, volume XVII), and 12th August and 18th September, 1835 (*see* pages 71 *et seq.* and 104 and 105).

Note 75, page 264.

To issue such Commissions periodically.

Examples of these commissions, dated 1st December, 1821, 29th August, 1822, and 26th May, 1824, will be found on pages 401, 410 and 539, volume I, series IV.

Note 76, page 265.

Have been informed.

The letters refusing to give reasons were all similar in form, and an example, dated 11th January, 1836, will be found on page 311.

Note 77, pages 274 and 275.

Colonel Arthur's Dispatch.—An enquiry.

The enclosures to this despatch were the same as the enclosures to the despatch dated 7th October, 1835 (*see* page 136 *et seq.*), the report of the inquiry forming sub-enclosures 2 and 4.

Note 78, page 286.

A large stone Bridge.

This bridge is still extant and is situated on the Sydney to Liverpool road about three miles from Liverpool. It was designed by David Lennox and consists of one arch, 110 feet long between the buttresses, across Prospect creek. At each end, the approaches are flanked by stone work. The foundation-stone was laid on the 1st of January, 1834, and the bridge was opened for traffic on the 26th of January, 1836, by Sir Richard Bourke. The opening ceremony was described by Roger Therry in his *Reminiscences* (page 393) as follows:—

“The Governor (Sir R. Bourke) and the military and civil officers, attended by a numerous body of the citizens of Sydney, rode out to the spot, twenty miles distant, and imparted quite a national demonstration to the event. It was inaugurated by a procession over the bridge. First, a small herd of fat oxen crossed the bridge; some fine horses of colonial breed came next; sheep, rivalling in weight and fleece some of the best Southdown sheep, and others of Saxon origin, followed. A dray laden with wool then took its place in the procession. Cases of preserved hams, borne on trucks, succeeded. Next came a dray laden with tanned oxhides. Riley of Raby drove over the bridge a flock of fine Angora goats, which he had just imported. Sir John Jamison contributed a butt of home-made wine. Macarthurs of Camden, besides wheat grown on their estate and wool from the first merino flocks imported by their father, exhibited wine and oil made from olives grown on their estate. They further supplied a display of fruits, the grape, the orange, the peach, the mulberry, the almond, the cherry, the fig, and, in short, every fruit and flower cultivated in England (with the exception of the gooseberry and the currant), and many fruits peculiar to tropical climates . . . Honey from the native as well English imported bee was also exhibited. In the evening, the celebration wound up with a ball in Government House at Parramatta, given to the principal contributors to ‘the Great Exhibition’ and the gentry of the neighbourhood. The Governor so enjoyed the whole scene of the morning that it seemed the happiest day he had spent in the Colony.”

In the account of the ceremony in the *Sydney Gazette*, it was stated that upwards of a thousand persons were present; that a marquee was pitched in an adjoining field, where upwards of two hundred ladies and gentlemen were entertained; and that the bands of the 4th and 50th regiments were present.

Note 79, page 287.

Also pages 357, 485, 590 and 692.

I am just sending him.

The object of this expedition was to trace the Darling river from the point reached by T. L. Mitchell in his previous expedition in the neighbourhood of Menindee (*see* note 10), and to examine the country south of the Murray river. Mitchell was accompanied by G. C. Staphylton as second in command, and twenty-three men. It was impossible to fulfil the principal object of the expedition owing to the prevalence of a drought. As in the previous

expedition, the party assembled at Boree, and commenced the journey on the 19th of March, 1836. A course was taken for the Lachlan river, which was reached a little above the modern town of Forbes. The Lachlan was followed to its junction with the Murrumbidgee river which was reached on the 12th-14th of May. The Murrumbidgee was followed to the Murray river, which was reached on the 23rd of May, and the Murray to the junction of the Darling river on the 30th of May. The Darling was traced for a few miles north, but, owing to the prevalent drought, it was decided to return along the Murray river. On the 15th of June, this river was crossed near its junction with the Murrumbidgee, and the left bank was followed to the neighbourhood of the modern Gunbower below Echuca, which was reached on the 27th of June. From here, Mitchell pursued in general a south-westerly course, until he arrived at the watershed of the Glenelg river, which was followed to the mouth of the river on the 20th of August. After visiting Portland bay on the 29th of August, Mitchell pursued a north-easterly course to return to the colony, examining in his journey the fertile country to the west of Mount Macedon in the modern state of Victoria. The Murray river was crossed above Corowa on the 18th of October, and, on the 24th, the advance party arrived at an outpost of civilisation, viz., Guy's station on the Murrumbidgee river near the modern town of Wagga.

Note 80, page 288.

The existing one.

By the royal warrant, dated 30th January, 1829 (*see* pages 623 and 624, volume XIV), a legislative council was constituted, consisting of fifteen members. The governor and six officials were nominated as members by right of office, and lieutenant-colonel Lindesay and seven settlers or merchants were nominated by name. These were to be "the first or original" members. In addition nine merchants or settlers were named in the warrant to succeed as members in the order named to any vacancy, which might occur amongst the original unofficial members. This was the "system," to which Sir Richard Bourke referred.

Note 81, page 289.

Mrs. Fry.

Mrs. Elizabeth Fry was the great advocate for reforms in the prisons. She was the eldest daughter of John Gurney, a banker at Norwich, and was born in the year 1780. She died in the year 1845.

Note 82, page 294.

9 Geo. 4, No. 6.

This was the act of council, entitled "An Act for enabling the Governor or Acting Governor of New South Wales to grant Letters of Denization to such Foreigners as may arrive in the Colony with a recommendation to that effect from His Majesty's Principal Secretary of State for the Colonies," passed on the 3rd of July, 1828.

Note 83, page 297.

The arrangement.

Instructions for the abolition of the office of collector of internal revenue were contained in the earl of Ripon's (viscount Goderich's) despatch, dated 29th September, 1831 (*see* page 392, volume XVI).

Note 84, page 302.

The Despatch.

This despatch was dated 14th October, 1835 (*see* page 161).

Note 85, page 302.

A former communication.—Reply.

The “communication” was dated 8th July, 1834, and the “reply” 13th February, 1835 (*see* pages 475 and 658, volume XVII).

Note 86, page 308.

Some cause.—A Pamphlet.

A report on the conduct of J. Bingle as magistrate was submitted by Governor Bourke in a despatch, dated 24th August, 1832, with which he transmitted a copy of the pamphlet by J. Bingle (*see* page 719 *et seq.* and note 204, volume XVI).

Note 87, page 309.

The case.

The details relating to the robbery of the house of James Mudie by his assigned servants will be found on pages 409 and 410, volume XVII.

Note 88, pages 309 and 310.

Whose brother.

This case of murder was not reported in the despatches of the governors.

Note 89, page 314.

Mr. Stephens.

W. Stephens, as well as being editor, was a part proprietor with Stokes of the *Sydney Herald*. Stephens and Stokes for some time held the contract for printing the *Government Gazette*.

Note 90, page 332.

Also page 593.

The Sydney Gazette of the 8 August containing a letter.

The letter was as follows:—

“ Sir,

“ I beg to inform the public, through the means of your valuable and widely circulated Journal, of a most disgraceful and immoral scene that took place in this neighbourhood in the afternoon of yesterday. The residents of this remote district were informed, as is usual, that the Rev. W. Wilkinson would attend at Mr. Marshall’s in the morning, and at Brandon, the estate of John Wighton, Esq., J.P., in the evening, for the purpose of divine worship. I cannot inform you, Sir, of the reasons of the non-attendance of the rev. gentleman; but, in consequence of the information given to the surrounding residents of Mr. Wighton’s estate, a number of persons attended for the purpose (originally) of attending to religious instruction, which, it was understood, would be given to the neighbourhood by their attendance at the worshipful gentleman’s residence. I cannot inform you, Sir, of the sudden transition that took place in the feelings of those, who attended originally to pray; but I can assure you on the best authority that, when these worthies found themselves disappointed by the rev. gentleman, they made up their minds not to remain long in suspence as to the mode of spending the evening, for liquor was supplied by that worshipful gentleman

through one of his house servants (called here by way of distinction his bar boy), and money received for the same *a la* tavern, until the before religiously inclined congregation became most outrageous and quarrelsome, and a scene of drunken depravity took place that baffles description. The worthies were at length awed by the appearance of the worshipful gentleman and his farm constable, duly armed, who took three of the votaries of Bacchanalian revels into custody; but they were released by the worshipful gentleman that evening on their promising to 'go and sin no more.' I beg to state that the scene was doubly disgusting by seeing males and females mixed indiscriminately in this scene of moral and disgraceful Sabbath breaking.

" I remain, &c.,

" Williams River,

" A RESIDENT OF WILLIAMS RIVER.

" 28th July, 1835."

The comments in the issue of the *Sydney Gazette*, dated 20th August, were contained in the leader which filled nearly one column.

Note 91, page 334.

The cause of whose omission.

The " cause " was the candidature and election of C. D. Riddell as chairman of the quarter sessions (*see* page 216 *et seq.*).

Note 92, page 334.

The first appointment.

The first sittings of a bench of magistrates in Australia were held on the 19th, 21st, 22nd and 23rd February, 1788. The bench was formed by David Collins, the deputy judge-advocate, and Augustus Alt, the surveyor on the staff of Governor Phillip. Alt was appointed a justice of the peace by Phillip, and was thus the first magistrate appointed in Australia.

Note 93, page 336.

Assessors in the Supreme Court.

It was provided in the statute, 9 Geo. IV, c. lxxxiii, that civil actions should be tried and damages enquired of and attested by a judge of the supreme court and two assessors, being magistrates or justices of the peace, nominated from time to time for the purpose by the governor or acting governor for the time being.

Note 94, page 337.

A recent despatch.

The despatch was dated 2nd December, 1835 (*see* page 216 *et seq.*).

Note 95, page 338.

The omission of a valued member of my family.

The reference was to George Kenyon Holden. He was born at Worcester, England, in 1806, and was educated as a solicitor. He arrived in New South Wales in the year 1831, and was, shortly afterwards, appointed private secretary to the governor.

Note 96, page 340.

Esquires.

By section 24 of the act of council, 2 Wm. IV, No. 3, for regulating the constitution of juries, it was provided " that every man, described in the said juror's book as an Esquire, or person of higher degree, or as a Justice

of the Peace, or as a merchant (such merchant not keeping a general retail shop), or as a bank director, shall be qualified to serve on special juries for the trial of issues in the Supreme Court as aforesaid, and shall, in consideration of such qualifications, be exempted from serving except with his own consent on any common jury as aforesaid."

An esquire is a title of function and not of birth and is not hereditary. One class to which it may be legitimately applied consists of holders of any superior office under the crown.

Note 97, page 345.

Previous correspondence.

The correspondence was from Governor Macquarie to Earl Bathurst, dated 7th October, 1814, Governor Bourke to Viscount Goderich, dated 28th February, 1832, Viscount Goderich to Governor Bourke, dated 22nd March, 1833, and under secretary Hay to Governor Bourke, dated 22nd April, 1833 (*see* page 338 *et seq.*, volume VIII, page 538 *et seq.*, volume XVI, and pages 53 *et seq.* and 79 *et seq.*, volume XVII).

Note 98, page 345.

The verdict of a Jury.

The opinion of the jurors in the suit of the King *v.* Thomas Steele will be found on page 179.

Note 99, page 351.

The 8th Section.

This section was as follows:—

"By the annexed regulations for the disposal of Crown lands, it will be observed that the general sales will take place periodically; but, in order to prevent inconvenience to Officers, who may arrive in the intervals between these sales and be desirous at once to obtain an allotment, the Governors of the Colonies are authorised to allow Officers to acquire at any time, on payment of the upset price, lands which have previously been offered for sale at some general sale and not been bought.

"Officers will thus be relieved from delay at the time of establishing themselves in the Colony. They will also be enabled by this arrangement, which will permit them to obtain their land at a fixed price, to choose such a quantity as shall be exactly equivalent to the amount of the remission to which they are entitled, instead of being liable to be called upon to pay a balance, which must be the case if they bid for lands at a sale by auction."

This and the seven preceding sections formed a paper issued by the colonial office and entitled "Information for the use of Military and Naval Officers, proposing to settle in the British Colonies."

Note 100, page 353.

Baron de Thierry.

The two following letters are explanatory of the extraordinary pretensions of baron de Thierry:—

BARON DE THIERRY TO H.M. THE KING OF GREAT BRITAIN.

Sire, Panama, Isthmus of Darien, 12th May, 1835.

Particulars, which have reached me here of the massacre of part of the crew of the Brig Harriet at New Zealand, in consequence of which the more peaceable and civilized natives had made application for protection

to the Governor of New South Wales, induce me to address Your Majesty on a subject upon which I intended to have had that honor at a future period, when the events now preparing should have attained greater maturity.

In the year 1823, I applied to Earl Bathurst to know whether His late Majesty's Government would give protection to a Colony which I was about to carry out to several Chieftaincies which I had purchased from the Native Chiefs; to which His Lordship replied (Dec. 10th) that New Zealand was *not considered as a possession of the Crown*; and, it being said, in an Act of Parliament (4th George 4th, Cap. xevi, 19th July, 1823) respecting the Jurisdiction of the Supreme Courts in New South Wales and Van Dieman's Land, that *New Zealand and other Islands of the Pacific are "not subject to His Majesty or to any European State or Power,"* I considered myself justified in changing my plan of Colonization into a form of Independent Government, not only for the security of my property, but also for the safety of the families who might accompany or follow me, and in consequence of the repeated and earnest prayers of several native Chiefs, who have from time to time invited me to rule over them and thus to ensure their future peace and prosperity.

I came to Panama at the beginning of the present year to negotiate with the Government of New Granada for permission to cut a Canal (*at the expence of New Zealand*) across the Isthmus and am waiting the return of the officer who I sent to Bogota, for the result of these negotiations; sending to Your Majesty's Secretary of State for Foreign Affairs Copy of my proposals for the information of Your Majesty's Government.

The Crown of England disclaiming Possession, the Parliament declaring non-dependence, Holland resigning right of discovery by Abel Tasman; the question naturally arose, who had better Govern New Zealand? and the answer became obvious, an educated European is more fit to govern a country neighbouring British possessions than suffer it to fall in foreign hands; and an Englishman I am, if birthright (though of Emigrant Parents who followed the fortunes of an ill-fated family), if English Education, as member of University and having been an Officer in the 23d Light Dragoons, can entitle me to that proud appellation. Yes, Sire, I am an Englishman, and the majority of those who follow me are Englishmen, and all honorable men; not going to invite Your Majesty's Australian subjects to disaffection and rebellion, but to promote the prosperity of British Commerce, to court the presence of British Settlers, to employ British Soldiers and Seamen, and to render New Zealand the sister and not the rival, the dearest friend and not the enemy of New South Wales and Van Dieman's Land.

By right of purchase of many Chieftaincies, I am a New Zealand Chief and a Sovereign Chief, in which character I treat with the Government of New Granada, and I assume my own flag; but that flag (though that of a descendant of Charlemagne) is an infant needing parental care and protection, and it is from the best parent of all Englishmen, and from the most able to protect, that I ask, for New Zealand, as for myself, family, and adherents, the Protection of the King of Great Britain.

This address to Your Majesty has a twofold object; first, to apprise Your Majesty of the steps which I am taking for establishing a form of Government, projected in 1824, and secondly to request Your Majesty to permit that one of Your Ships of War may be stationed in the Bay of Islands, and that a force of Two Hundred Men with Officers may be stationed at our principal settlement for the safety of persons and property, the which naval and Military forces shall be regularly supplied with fresh provisions without expence to the British Government.

New Zealand, protected by Great Britain, will rapidly grow into a flourishing nation, and without being a tax upon England, as she would be as a British Colony; she will enrich Australia with her commerce, and secure her from foreign molestation, and perhaps, in these times of disaffection and innovation, against all attempts to shake off her allegiance to Your Majesty.

Documents, which I forward to the Duke of Wellington, requesting His Grace to lay their contents before Your Majesty, will sufficiently prove that I have ever had in view the welfare and prosperity of Your Majesty's subjects; and I now solemnly declare to you, Sire, that it shall be my constant study to promote that good and salutary understanding between the people of New Zealand and Your Majesty's Australian subjects, which will ensure to the latter constant sources of wealth arising from our increasing importance, and of security from our growing strength, which shall ever respond to Your Majesty's call.

I shall sail from Panama in three or four days from the present time, on the arrival of the decision of the Government of New Granada respecting the Isthmus Canal; and, on receiving a final answer from the Government of Guyaquil relative to the "Columbia" 64 Gun Ship, for which I am in treaty.

In the sincere hope that our extensive, though thinly populated regions, will be protected in the integrity of free Government by Your Majesty, and with a fervent Prayer to Almighty God for the health and long life of Your Majesty and your Royal House,

I remain with profound respect, Sire,

Your Majesty's Most faithfully Devoted,

CHARLES, BN. DE THIERRY.

BARON DE THIERRY TO DUKE OF RICHMOND, POSTMASTER-GENERAL.

My Lord Duke,

Panama, 23d May, 1835.

With a sincere desire that my proceeding to New Zealand may be productive of advantage to His Majesty's subjects in both hemispheres, and may lead to an encrease of their welfare and prosperity, I have the honor to call your Grace's attention and concurrence to arrangements, which I have made here for the conveyance of mails direct from England to New South Wales and Van Diemen's Land, via Panama, and touching at Otaheiti.

From and after the 15th day of August next, an armed vessel will sail from the port of Panama for New Zealand, touching at Otaheiti, and vessels will also leave New Zealand for Panama every fifteen days. I propose to His Majesty's Government, through your Grace's medium, that the British Mails for the Pacific be forwarded by His Majesty's packets on the Jamaika Station and forwarded to Chagres, where my Agent will receive them, and send them immediately on to Panama to be re-shipped. The Mails will be carried to New Zealand via Otaheiti, and will be forwarded to Sydney and Hobart's Town (wind and weather permitting) within 48 hours of their arrival at the Bay of Islands. H.M.'s Post Office to charge all letters and parcels to Chagres, and a moderate postage to be paid to the Government of New Zealand for carriage of letters, etc., from Panama to Otaheiti, New South Wales and Van Diemen's Land. The Post Office here will claim a small right of passage, which my Agent will pay and charge to the Pacific letter account. Thus letters would reach H.M.'s Australian Colonies in about 75 days, instead of the five months which they are now on their way.

Should this proposal, so beneficial to commerce and promising such safe and rapid means of communication with Australia, be accepted, the greatest exactness will be observed in the shipment and regular sailing of the Mails; and, as the vessels employed in the service will be well found in every respect,

passengers from England will have the benefit of this conveyance. For my own advantage, in return, I shall request that H.M.'s Packets may be directed to call at Pointe a Petre, Guadeloupe, out and home, and be allowed there to receive mails and a limited number of passengers, should any wish to take passage.

Mr. J. B. Feraud, U.S. Consul, is my agent at Panama, and will pay the greatest attention to the regular service of the Mails. The armed fast ship "Active" will sail on the 15th of August on her second voyage from this port to Otaheiti, and will take the British mails if forwarded in time.

I would suggest to your Grace the propriety of giving public notice in London, for the benefit of Commerce, that the "Active" will sail on the above date *without fail*; and that letters and parcels will be forward immediately after arrival at New Zealand to the British Colonies, where the packet will make a short stay to bring back the mails for Europe. As soon as arrangements can be completed, the communication between New Zealand and H.M.'s Colonies will be carried on by Steam Boats.

I am, &c.,

CHARLES, BN. DE THIERRY.

Note 101, page 354.

The additional British Resident.

The appointment of Thomas Macdonnell as second British resident in New Zealand was announced by the right hon. T. Spring Rice in his despatch, dated 8th July, 1834 (*see* pages 472 and 473, volume XVII).

Note 102, page 354.

Notice of the Law.

The notice, dated 28th October, 1835, was as follows:—

"His Excellency the Governor directs it to be notified, for the information of Commanders of Vessels, and all other persons frequenting or trading with New Zealand, that it has been officially communicated to this Government that the Chiefs of Hokianga in that Island have, by a Law agreed to by them on the 21st of September, 1835, prohibited the importation of Spirits into their District, and enacted that any, which may in future be attempted to be landed, as well as the Boats employed in disembarking the same, shall be confiscated."

Note 103, page 357.

The course pursued by Hovell and Hume.

A note on the expedition of H. Hume and W. H. Hovell overland from lake George to Port Phillip will be found numbered 151 in volume XI.

Note 104, page 357.

The vast extent of country.

This country included the whole of the modern state of Victoria, the Riverina district in the state of New South Wales and the south-eastern portion of the state of South Australia.

Note 105, page 362.

The statements.

In an article, entitled "Brief view of the state of Van Diemen's land at the close of the Year 1831," published in the almanac for 1832, Dr. James Ross stated:—"Among the most prominent of our dampers, if I may so term them, is the abolition of the system of granting land to the new or

industrious settler, the sale of lands measure at the minimum price of 5s. an acre, and the threatened exaction of quit rents, wholly disproportioned to the circumstances of the colony or the means which the settler has of paying them. The consequence of these measures, as it was natural to expect, is the entire stoppage or embargo of all further extension of improvement throughout the island."

Note 106, page 378.

The honor of Knighthood.

This was the second recommendation of a resident in the colony for the honour of knighthood by a colonial governor. In a despatch, dated 5th April, 1817, Governor Macquarie recommended John Wylde, the judge-advocate (*see* page 380, volume IX).

Note 107, page 379.

Lord Ripon's rules.

The "rules" were contained in despatches, dated 9th January and 29th September, 1831 (*see* pages 19 *et seq.* and 388, volume XVI).

Note 108, page 381.

The Geelong and Dutigalla Association.

The Geelong and Dutigalla or Port Phillip Association originated with John Batman, possibly assisted by J. T. Gellibrand. The former was a settler near Ben Lomond in Tasmania, and the latter a lawyer at Hobart town. Both were desirous of obtaining land on the mainland, north of Bass strait, and, in the year 1827, applied unsuccessfully for permission to occupy land at Western port. Subsequently for six years Batman was employed in endeavouring to civilise the natives of Tasmania. About the beginning of the year 1835, Batman and fourteen residents in Tasmania conceived the idea of obtaining the cession of land from natives at Port Phillip in the modern state of Victoria. Funds were provided, and Batman sailed from Launceston in a small vessel of twenty-three tons, the *Rebecca*, in May, 1835. On board the vessel besides Batman, there were Harwood the captain, Robson the mate, three white men, and seven aboriginals from New South Wales. Batman returned to Tasmania a month later after obtaining the cession of six hundred thousand acres at Port Phillip (*see* note 40). On the 27th of June, 1835, the promoters of the enterprise wrote to Lord Glenelg (*see* volume in series III) claiming recognition of their title to the land. On the 29th of June, a deed was signed, defining the objects of the enterprise; and thereby the Port Phillip Association was constituted. The parties to this deed were C. Swanston, T. Bannister, J. Simpson, J. T. Gellibrand, J. and W. Robertson (merchants), and J. T. Collicott, all of Hobart town, H. Arthur (a nephew of lieutenant-governor Arthur), J. H. Wedge (surveyor), J. Sinclair, A. Cotterell, W. G. Sams and M. Connolly (merchant), all of Launceston, G. Mercer of Edinburgh, and J. Batman of Ben Lomond. The property of the association was divided into seventeen parts, of which two were held by J. Batman, one by J. and W. Robertson jointly, and one each by the remaining members of the association. The remaining two shares were held by G. Mercer in trust to be apportioned at his discretion. J. Batman and J. H. Wedge were appointed as superintendents at Port Phillip, and each member of the association undertook to land at his own expense five hundred breeding ewes at Port Phillip within six months, and five hundred more within twelve months, and to provide and maintain the men necessary to take care of the sheep.

By an indenture, dated 30th June, 1835, J. Batman transferred the land, he had acquired at Port Phillip, to C. Swanston, J. T. Gellibrand and J. Simpson, virtually as trustees for the association.

Note 109, pages 381 and 390.

Also pages 541, 680, 683 and 766.

4 and 5 Wm. IV, C. 95.—*The New Colony.*

The statute, 4-5 Wm. IV, c. xcv, was passed on the 15th of August, 1834, and was entitled "An Act to empower His Majesty to erect South Australia into a British Province or Provinces, and to provide for the Colonization and Government thereof."

A brief account of the causes, which led to the passing of this statute, will be found in note 205, volume XVI.

The boundaries of the province were in the north the twenty-sixth parallel of south latitude, in the east and west the one hundred and forty-first and the one hundred and thirty-second meridians of east longitude respectively, and in the south by the southern shores of Australia. These boundaries on the north, east and south remain the boundaries of the modern state; but the western boundary was moved three degrees further west by the imperial statute 24-25 Viet., c. xliv, passed on the 22nd of July, 1861.

Colonisation commissioners were appointed and were gazetted on the 27th of April, 1835. The colonisation scheme was experimental, as in the settlement of West Australia (*see* page xvi, volume VI, series III). The British government refused to incur any expense; the costs of emigration were defrayed from the land revenues, and the costs of administration by the issue of "South Australian Colonial Revenue Securities" (*see* note 189). The introduction of convicts was prohibited in the province, and the minimum price for land was fixed at 12s. *per* acre, although the price within the territory of New South Wales was only 5s. (*see* also volumes in series III).

Note 110, page 389.

Governor Philip . . . who formed a temporary settlement there.

This statement is erroneous. Governor Phillip during the period of his administration was unaware of the existence of Port Phillip and Bass strait, and the settlement was formed under David Collins in the year 1803 (*see* volume I, series III).

Note 111, page 391.

The despatches.

These despatches were dated 26th December, 1835, 1st January and 3rd February, 1836 (*see* pages 246 *et seq.*, 256, 288 and 289).

Note 112, page 398.

A recent judgment.

The judgment was given in the action, Terry *v.* Spode, in 1835. Terry and Spode held adjoining land grants. Spode claimed and took possession of a portion of land occupied by Terry. Terry brought an action for ejection, and the jury gave a verdict in his favour. But the decision was given that both grants were "defective and void in law." The error, which made the deeds of grant invalid, was discovered by Alfred Stephen in 1829. Both in New South Wales and Tasmania, the governor or lieutenant-governor was empowered to make land grants; but the deeds had been issued in their own names instead of in the name of the King.

Note 113, page 399.

A Public Meeting.

The meeting was held at the Royal hotel, Sydney. On the motion of John Blaxland, seconded by Sydney Stephen, Sir John Jamison occupied the chair. W. C. Wentworth made a lengthy speech, then read the petition, and concluded by moving its adoption. The motion was seconded by Sydney Stephen, and carried unanimously by the large assemblage present. A committee was then appointed to obtain signatures to the petition, consisting of Sir John Jamison, John Blaxland, W. C. Wentworth, colonel McKenzie, captain Coghill, F. Stephen, H. Cox, J.P., R. Johnstone, J.P., Wills, J.P., Ostler and Riley.

Note 114, page 400.

Their last Petition.

This was the petition, prepared in consequence of the resolutions carried at the public meeting on the 28th of August, 1834 (*see* page 496 and note 128, volume XVII).

Note 115, page 409.

The Despatches.

These despatches were dated 14th October, 1835, and 10th February, 1836 (*see* pages 161 *et seq.* and 290).

Note 116, pages 410 and 411.

The notice.—A Notice.—Revised notice.

The notice, dated 28th October, 1835, announced the offer of bounties "to those Settlers, who shall be at the charge of bringing Emigrants to Sydney." The notice consisted of five sections, the two important ones being as follows:—

"1. The sum of £30 will be granted as a bounty towards defraying the expense of the passage of every married man, whether mechanic or farm servant, and his wife, neither of whose ages shall exceed on embarkation thirty years; and the sum of £5 for each of their children, whose age shall exceed 12 months. A sum of £15 will also be allowed for every unmarried female, whose age shall not be below 15 nor above 30 years, who shall come out with the consent of the Settler or his agent under the protection of the married couple, as forming part of the family and destined to remain with it until such female be otherwise provided for. A bounty of £10 will also be allowed for every unmarried male mechanic or farm servant, above the age of 18 and not exceeding 25 years, brought out by a Settler, who at the same time brings an equal number of females, accompanying and attached to a family as herein before described."

"3. Settlers, desiring to avail themselves of any of these bounties, are required to transmit to the Colonial Secretary at Sydney, on or before the last day of November next, a list specifying, as nearly as circumstances will permit, the number, condition and calling of the persons they propose to bring out."

Governor Darling's notice, dated 26th August, 1831, will be found on page 351, volume XVI.

The "revised notice" was dated 4th May, 1836. It offered the following bounties:—Married couple, £35; child above twelve months, £5; single female, £17; single male, £12. These bounties were granted on the redemption of quit rents on land grants, calculated at ten years' purchase.

Any person, bringing out emigrants, was allowed the option on their arrival of accepting money payments under the notice, dated 28th October, 1835, or payments for redemption of quit rent under the notice, dated 4th May, 1836.

Note 117, page 420.

The extension of the Diocese of Australia.

The limits of the archdeaconry were confined to the limits of the jurisdiction of the governor of New South Wales and the island of Tasmania. These limits included that portion of Australia lying to the east of the modern state of West Australia. The diocese of Australia included the whole continent of Australia and the island of Tasmania.

Note 118, pages 420 and 422.

The security of the Chaplains.—An agreement.

Instructions relating to the stipends of the clergy and land grants for themselves and their families were given by Sir George Murray in his despatch, dated 25th May, 1829 (*see* page 784 *et seq.*, volume XIV).

Note 119, page 423.

In recently forwarding.

The memorial from William Ogilvie was forwarded by Sir Richard Bourke with his despatch, dated 25th February, 1836 (*see* page 296).

Note 120, page 427.

Their Flag.

Approval of the national flag for the Maoris was given by the earl of Aberdeen in a despatch, dated 21st December, 1834 (*see* pages 608 and 609, volume XVII).

Note 121, page 428.

Sir J. Stirling.

Notes on the foundation of the settlement at Swan river, West Australia, and on the life of James Stirling will be found on pages xiv *et seq.* and 861, volume VI, series III.

Note 122, pages 428 and 432.

A letter.—This letter.

Copies of these letters are not preserved with the originals of these despatches at government house, Sydney.

Note 123, pages 430 and 431.

The Court Martial.—The late select Committee.

R. Robison was tried by court-martial by order of Governor Darling in the year 1828 (*see* page 482, volume XIV). The select committee was appointed by the house of commons on the 30th of July, 1835, "to inquire into the Conduct of General Darling" (*see* pages xv and xvi, volume XII).

Note 124, page 434.

Copy of letter from Mr. Bayley.

A copy of a letter to Sir John Barrow, dated 25th October, 1835, will be found on pages 185 and 186.

Note 125, page 435.

The report . . . (See the Sydney Herald).

This report will be found on pages 373 and 374.

Note 126, page 436.

Printed copies.

Similar "printed copies" will be found in the *Votes and Proceedings* of the legislative council.

Note 127, page 437.

His letter.

A copy of this lengthy letter was printed in the *Votes and Proceedings* of the legislative council.

Note 128, page 439.

The Bishop . . . was installed.

In the issue of the *Sydney Gazette* dated Tuesday, 7 June, 1836, the following account was given:—

"The ceremony of installation of Bishop Broughton took place on Sunday last at St. James's Church before a most numerous and respectable congregation; the Church was in deep mourning in consequence of the loss sustained by the death of the Rev. Richard Hill. At 10 o'clock, the Bishop, accompanied by the Colonial Secretary in his uniform and the Members of Council, High Sheriff, etc., etc., entered the church, and was by them conducted to the pew allotted to the Chaplains. He was clothed as Bishops usually are (with the exception of the Mitre) in a black satin gown, with large white lawn sleeves, and looked remarkably well; the prayers having been read by the senior Chaplain of the colony (the Rev. Mr. Cowper), the Bishop attended as before proceeded to the centre of the aisle, and his commission having been read by Mr. Cowper concluded the ceremony." A sermon was then preached by the bishop and the service did not conclude until past 3 p.m.

Note 129, page 440.

His Majesty's Warrant.

A copy of this warrant will be found on pages 623 and 624, volume XIV.

Note 130, page 441.

Descriptions of the Hundreds and Parishes.

These descriptions will be found in a volume in series II. In a despatch, dated 1st January, 1825 (*see page 434 et seq.*, volume XI), Earl Bathurst gave instructions for the appointment of commissioners to apportion the colony into counties, hundreds and parishes; each county was to contain as nearly as possible forty miles square; each county was to be subdivided into hundreds, of which each hundred should comprize as nearly as possible one hundred square miles; and each hundred was to be subdivided into four parishes, each parish comprizing as nearly as possible twenty-five square miles. The grouping of four parishes into a hundred was found of no practical value, and was not continued. The division into hundreds was revoked by a proclamation dated 17th January, 1888, and only the divisions into counties and parishes are now used for purposes of land titles, etc.

Note 131, page 452.

An act of the Colonial Legislature.

This act of council was passed on the 13th of October, 1832, and was entitled "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 allotment, 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." In this act, it was recited that the college was erected on a portion of the land granted to the Scots church.

Note 132, pages 456 and 457.

Petitions.—Counter Petition.

Copies of these petitions will be found on pages 392 *et seq.*, 395 *et seq.* and 399 *et seq.*

Note 133, page 457.

Proposing . . . to furnish more complete information.

The "information" was contained in despatches dated 8th August, 1836 (*see* pages 466 *et seq.* and 474 *et seq.*).

Note 134, page 458.

Also pages 578, 587, 629 and 748.

Extracts.

Copies of these papers are not preserved with the originals of the despatches filed at government house, Sydney.

Note 135, pages 458 and 459.

The existing system.—The printed Regulations.

The "system" for the disposal of crown lands was enunciated by viscount Goderich (earl of Ripon) in despatches, dated 9th January and 14th February, 1831 (*see* pages 19 *et seq.* and 80 *et seq.*, volume XVI).

The "regulations" will be found on page 454, volume XI, and on pages 462 and 463, volume XII.

Note 136, page 467.

Also pages 469 and 475.

A printed Speech.

This speech was printed by Stephens and Stokes at the *Herald* office in an octavo pamphlet of twenty-four pages, entitled *A Speech delivered at the General Committee of Protestants on Wednesday, August 3, 1836, by the Bishop of Australia.—Reprinted by order of the General Committee of Protestants.*

Note 137, page 468.

Four Members.

These members were Robert Campbell, Richard Jones, E. C. Close and H. H. Macarthur.

Note 138, page 476.

The Bill.

This act was passed on the 29th of July, 1836, and was entitled "An Act to promote the building of Churches and Chapels, and to provide for the maintenance of Ministers of Religion in New South Wales."

Note 139, page 481.

Your Commission.—Royal Instructions.

A copy of the commission will be found on page 837 *et seq.*, volume XVI, and of the instructions in an appendix to a later volume.

Note 140, page 490.

The Chief Justice.

The chief justice was John Lewes Pedder, who was appointed in 1823 under the charter of justice for Van Diemen's land (Tasmania) (*see* page 478, volume IV, series III).

Note 141, page 490.

The Coast of Honduras.

In July, 1814, George Arthur was appointed superintendent and commandant of British Honduras. He administered this government for eight years.

Note 142, page 492.

The Commission.

This commission will be found on page 444 *et seq.*, volume XI.

Note 143, page 507.

An Act.

This was the statute, 6 and 7 Wm. IV, c. xlvi, which was passed on the 28th of July, 1836, and entitled "An Act to continue until the thirty first day of December, one thousand, eight hundred and thirty seven, and from thence to the end of the then next Session of Parliament, an Act of the ninth year of His late Majesty for the administration of Justice in New South Wales and Van Diemen's Land."

Note 144, page 515.

A recent Road Act.

This was the act of council, 6 Wm. IV, No. 11, which was passed on the 9th of October, 1835, and entitled "An Act to provide for the repairing of Parish Roads in the County of Cumberland in the Colony of New South Wales."

Note 145, page 525.

The Commission.

The "commission" was a committee of the legislative council (*see* note 46). The witnesses, examined by this committee, were A. Macleay, colonial secretary; C. D. Riddell, colonial treasurer; W. Macpherson, collector of internal revenue; Reverend J. D. Lang; S. Marshall, R.N.; J. Eckford, M.D.; R. Jones, M.C.; Sir John Jamison; J. Blaxland, M.C.; R. Scott, J.P.; A. Bell, M.C.; T. U. Ryder; T. Walker, J.P.; T. P. Macqueen, J.P.; G. Cox, J.P.; G. Druitt, J.P.; J. Bowman, J.P.; J. Atkinson; W. Lawson, senr., J.P.; T. H. James; P. P. King, capt., R.N.; H. H. Macarthur, M.C.; T. Shepherd; M. W. Lewis; W. Macarthur, J.P.; J. Coghill, J.P.; J. Lamb, R.N.

Note 146, page 537.

An Act.

The passing of this act was probably the most important reform introduced by Sir Richard Bourke during his administration of the colony (*see* pages xvi and xvii, volume XVII).

Note 147, page 540.

No Signature or superscription.

It was the practice for the writer to sign his name on that portion of the letter which, when folded, bore the address, or on the envelopes, when envelopes came into use. This custom prevailed for many years, and the late Sir Henry Parkes adopted it almost to the time of his death. Anyone handling the letter was thus aware of the names of both addressor and addressee.

Note 148, page 540.

Captn. Wm. Lonsdale.

Soon after the appointment of William Lonsdale, three surveyors, a constable, an officer of the customs department, and lieutenant King with thirty soldiers were detailed for duty at Port Phillip.

Note 149, page 541.

The Government notice.

This notice was as follows:—

“Colonial Secretary’s Office, 9th September, 1836.

“His Majesty’s Government having authorised the location of Settlers on the vacant Crown Lands, adjacent to the shores of Port Phillip, under the same Regulations as are now in force for the alienation of Crown Lands in other parts of New South Wales, and several persons having already passed over there from Van Diemen’s Land, His Excellency the Governor has been pleased to appoint Captain William Lonsdale, of the 4th or King’s Own Regiment, to be Police Magistrate for that district, of which all persons concerned are hereby required to take notice.

“Arrangements are in progress for effecting the Survey and Measurement of such parts of the Land near Port Phillip, as it may be expedient to dispose of in the first instance; but, until the same have been completed, of which due notice will be given, no applications for purchase can be entertained. In the meantime, it is distinctly to be understood by those persons, who may be desirous of resorting to Port Phillip from other parts of New South Wales or Van Diemen’s Land, that no advantage will be obtained by the occupation of any land at that place previously to its conveyance by a legal instrument from the Government of New South Wales, as without such title the land (unless required for public purposes) will be subject to be put up for competition at a Public Sale and sold to the best bidder.

“By His Excellency’s Command,

“ALEXANDER M’LEAY.”

Note 150, page 543.

My Despatch.

The despatch was dated 1st August, 1835 (*see* pages 57 and 58).

Note 151, page 557.

The Australian Gas Light Co.

This company was formed in the year 1836 to supply gas for lighting in the town of Sydney. The resolutions for the formation of the company were carried at a general meeting at the Royal hotel, held on the 29th of June, 1836. The capital was fixed at £100,000, divided into twenty thousand shares of £5 each. A. B. Spark was appointed treasurer. Within twelve months, twelve hundred shares were subscribed for, and the first call of £1 per share was paid on eleven hundred. Of the sum of £1,100, £600 was deposited in the bank of Australia, and £500 remitted to England in part payment for an order for apparatus to the amount of £1,000.

Note 152, page 558.

The explanations.—The remarks.

The "explanations" were contained in a letter, dated 25th February, 1834, and the "remarks" in a despatch, dated 15th June, 1833 (*see* pages 421 *et seq.* and 142 *et seq.*, volume XVII).

Note 153, page 564.

Notices.

These notices were dated the 1st and 4th October, 1836, respectively. The first notice was issued under the act of council "to restrain the unauthorised occupation of Crown Lands." It contained nine regulations relating to the issue of licenses for depasturing live stock on vacant crown lands without the limits for location, and of leases of vacant crown lands within such limits, together with forms for application or renewal of such licenses, and a form for the license itself.

The second notice was issued under the general church act, 7 Wm. IV, No. 3, and contained six regulations, "under which issues will be made from the Colonial Treasury in aid of the erection of Churches, Chapels and Ministers' Dwellings, and towards the payment of Minister's Stipends," together with two forms for making applications for a grant.

Note 154, page 571.

Abstracts.

These "abstracts" were incorporated in the annual statements, printed in the *Votes and Proceedings* of the legislative council.

Note 155, page 572.

He would leave.

The administration of George Arthur as lieutenant-governor of Tasmania terminated on the 30th of October, 1836 (*see* page xv, volume IV, series III).

Note 156, page 574.

These lengthy statements.

These statements contained the names of the female immigrants, with the details of their employment, wages, etc.

Note 157, page 581.

Their Report.

The committee, consisting of the acting chief justice, the colonial secretary, the auditor-general, A. Berry and H. H. Macarthur, presented their report on the 12th of August, 1836, after examining M. W. Lewis, the

architect, and G. Barney, the commanding royal engineer, and inspecting personally various proposed sites. The site selected is the site now occupied by the state government house at Sydney. In the plan which was attached to this report, it was proposed to continue Macquarie, Phillip, Elizabeth, Castlereagh and Pitt streets almost due north from their intersections with Hunter-street to the waters of Sydney cove, now Circular quay. Unfortunately for the modern city of Sydney, this proposal was adopted only in Macquarie, Phillip and Pitt streets.

Note 158, page 581.

The first communication.

The "communication" was a despatch dated 2nd November, 1832 (*see* page 785 *et seq.*, volume XVI).

Note 159, page 581.

Under the consideration of His Majesty's Government.

The despatches relating to the claims of Henry Dangar were dated 11th March, 10th May and 10th August, 1827, 12th February and 18th December, 1828, 20th March and 19th December, 1829, and 24th July, 1830 (*see* pages 149 *et seq.*, 287, 288, 499 *et seq.*, and 779, volume XIII, pages 527 *et seq.* and 683 *et seq.*, volume XIV, and pages 294 *et seq.*, 601 and 602, volume XV).

Note 160, page 583.

A certain Building Allotment.

Governor Bourke reported on the claim of W. Dumaresq in a despatch, dated 24th December, 1832 (*see* page 824 *et seq.*, volume XVI).

Note 161, page 584.

The piece of ground.

This land is situated on the south of the modern Stanley-street and on the east of the modern College-street.

Note 162, page 584.

A Letter.

This letter was dated 28th October, 1833 (*see* page 256 *et seq.*, volume XVII).

Note 163, page 585.

The established Regulations.

The regulations for officials on leave of absence provided that they should receive half salary during leave, and that their *locum tenens* should receive the balance of the salary.

Note 164, page 586.

A Report.

In a note on the original of this despatch, it was stated that it was impossible to submit a report as F. (John) Lhotzky had removed to Tasmania. Lhotzky travelled in the Australian Alps during the months of January, February and March, 1834.

Note 165, page 588.

The claims of the Association made known to your Lordship by Mr. Mercer.

The letters from George Mercer on behalf of the association will be found on pages 381, 382, 383 *et seq.* and 386 *et seq.*

Note 166, page 589.

The grounds.

The executive council were of opinion that it was impracticable to sell land by public auction and at the same time to grant priority of purchase to any buyer; that the Port Phillip association had no claims to the land by right of discovery or by the title acquired from the aborigines; that no compensation could be granted for any expenditure by the association subsequent to the date of the proclamation issued on the 26th of August, 1835 (*see* note 42); and that compensation could be granted only for expenditure prior to that date.

Note 167, page 590.

The accompanying Supplement.

The supplement was dated 5th November, 1836, and contained a letter filling eight columns from surveyor-general Mitchell to the colonial secretary, dated 24th October, 1836, and written at "Camp on the River Murrumbidgee in Lat. 35° 7' 11" S., Long. 147° 27' 40" E." The letter contained a report on the expedition (*see* note 79).

Note 168, page 590.

Australia Felix.

The name "Australia Felix" was given by T. L. Mitchell to the rich lands, which he discovered to the west, north-west and south-west of Mount Macedon in the modern state of Victoria.

Note 169, page 591.

A Despatch.

This despatch was dated 22nd December, 1834 (*see* pages 610 and 611, volume XVII).

Note 170, page 600.

An application.

A copy of this application is not available.

Note 171, page 603.

The Fifth Section.

The fifth section was as follows:—

"And be it enacted, That, whenever any sum not less than fifty pounds for any one year shall be raised by private contributions towards the maintenance of a Minister of Religion in any part of the said Colony, in which there shall be no Church or Chapel at which persons of the creed of such Minister can be reasonably expected to attend, and there shall also appear reasonable cause for delaying the erection of a permanent Church or Chapel for the use of such persons under the foregoing provisions, it shall be lawful for the said Governor, with the advice of the Executive Council, to cause to be issued from the Colonial Treasury towards the maintenance of such Minister any sum not exceeding one hundred pounds, which shall be equivalent to the sum raised by private contribution as aforesaid."

Note 172, pages 621 and 736.

The Lunatic Asylum.

This asylum was erected at Tarban creek on the Parramatta river. It now forms a part of the hospital for insane at Gladesville. A note on the former asylums will be found numbered 167 in volume XIV.

Note 173, page 626.

The Colonial Criminal law.

The change was effected by the act of council, 3 Wm. IV, No. 3, entitled "An Act to consolidate and amend the Laws for the transportation and punishment of Offenders in New South Wales, and for defining the respective powers and authorities of General Quarter Sessions and of Petty Sessions, and for determining the places at which the same shall be holden, and for better regulating the summary jurisdiction of Justices of the Peace, and for repealing certain Laws and Ordinances relating thereto."

Note 174, page 628.

An extract.

This extract will be found in a volume in series II.

Note 175, page 632.

Despatch numbered 13.

This despatch was dated 18th February, 1837 (*see* page 690).

Note 176, pages 634, 706, 708 and 716.

Gov. Notice of 28 Oct., 1835.

The two principal sections of this notice will be found in note 116.

Note 177, page 638.

My despatch.

This despatch was dated 1st August, 1835 (*see* page 57).

Note 178, page 638.

The determined hostility.

Sir Richard Bourke reported the opposition of A. Macleay in two despatches, dated 8th August, 1836 (*see* pages 466 *et seq.* and 474 *et seq.*).

Note 179, page 642.

The House.—The Building.

The "house" stood at the western corner of Macquarie-street at Queen's-square on the site now occupied by the Queen's club. For many years, it was used as the parsonage of St. James's church.

The "building" was commenced by Sir Thomas Brisbane and completed by Governor Darling. It was erected in an angle of the grounds belonging to the military barracks on the western side of George-street. The proximity of the barracks was considered to give greater security to the public treasure.

Note 180, page 645.

The Kangaroo Valley.

The selection of this valley indicated great foresight in J. G. Collins. It is a fertile valley of large area lying to the east of Moss Vale, and is almost completely enclosed by high mountains and in many places by precipitous cliffs.

Note 181, page 647.

Mr. Dawson's Book on Australia.

This was an octavo volume of xix and 464 pages, printed at London and entitled *The Present State of Australia; a Description of the Country, its advantages and prospects with reference to Emigration; and a particular Account of the Manners, Customs and Condition of the Aboriginal Inhabitants.*

Note 182, page 656.

The Minute and evidence.—Memorandum.

Extracts from minutes, numbered 29, 30 and 31 and dated 16th, 19th and 24th December, 1836, of the proceedings of the executive council, together with sundry exhibits and the evidence of witnesses, were published in a sixteen-page supplement to the *Government Gazette*, dated 21st January, 1837. The witnesses examined were nine members of the exploring expedition.

The "memorandum" will be found in a volume in series V.

Note 183, page 659.

My Commission.

The commission will be found on page 837 *et seq.*, volume XVI.

Note 184, page 663.

The accompanying Report.

The Australian school society was founded in the year 1835 on the principles of the British and foreign school society for the education of poor children. It was controlled by a committee of fifteen, a treasurer, Richard Jones, two secretaries, Revd. R. Mansfield and G. Allen, and a ladies' committee of thirteen. The boys' school was opened on the 8th of June, 1835, in Hart's buildings, Pitt-street, Sydney, and the girls' school, on the 18th of January following, in the Friends' meeting-house in Macquarie-street. Twelve months after the society was founded, one hundred and twenty boys and twenty-seven girls were attending school.

Note 185, page 671.

Former correspondence.

The reference was to despatches, dated 8th July, 1834, 13th February, 1835 (*see* pages 475 and 658, volume XVII), 28th February, 1836, and 31st October, 1836 (*see* pages 302 and 578).

Note 186, page 679.

The communication.

A copy of this letter will be found on page 27.

Note 187, page 681.

The Instructions.

These instructions were contained in a despatch, dated 10th July, 1831 (*see* pages 297 and 298, volume XVI).

Note 188, page 682.

The first Annual Report.

This report was dated 14th June, 1836, and was received by the secretary of state for the colonies on the 24th of June in accordance with the statute, 4-5 Wm. IV, c. xcv (*see* note 109), and was printed. The report dealt with the "price of land," "loans," "treatment of the aborigines," "emigration," "survey," "difficulties encountered" and "obstacles to be removed" in connection with the settlement of South Australia. The commissioners were R. Torrens, W. Hutt, J. Pennington, S. Mills, J. G. S. Lefevre, J. Roberts, J. Montefiore, E. Barnard and G. Palmer, junr. (*see* also volume in series III).

Note 189, page 682.

South Australian Revenue Bonds.

By the 18th section of the South Australian act, it was enacted:—"That, for defraying the necessary Costs, Charges and Expences of founding the said intended Colony, and of providing for the Government thereof, and for the Expences of the said Commissioners (excepting always the Purpose whereunto the said Emigration Fund is made solely applicable by this Act), and for defraying all Costs, Charges and Expences incurred in carrying this Act into execution, and applying for and obtaining this Act, it shall and may be lawful for the said Commissioners from Time to Time to borrow, and take up on Bond or otherwise, payable by Instalments or otherwise, at Interest not exceeding Ten Pounds *per Centum per Annum*, any Sum or Sums of Money required for the Purposes last aforesaid, not exceeding in the whole the Sum of Two hundred thousand Pounds, by granting or issuing to any Person or Persons, willing to advance such Monies, Bonds or obligatory Writings under the Hands and Seals of the said Commissioners, or any Two of them, which Bonds or other obligatory Writings shall be termed '*South Australian Colonial Revenue Securities.*'"

Note 190, page 689.

The Instructions.

A copy of these instructions will be found in a volume in series II.

Note 191, page 691.

Former Despatches.

These despatches were dated 12th October, 1835, and 15th March, 1836 (*see* pages 159 and 356).

Note 192, page 693.

The Colonial Law.

The reference was to the act of council, 3 Wm. IV, No. 3, known as the "Offenders Punishment and Justices Summary Jurisdiction" act, which was passed on the 24th of August, 1832.

Note 193, page 699.

A Dispatch.—The answer.

These despatches were dated 30th September, 1833, and 30th November, 1835 (*see* page 224 *et seq.*, volume XVII, and page 201 *et seq.* in this volume).

Note 194, pages 705 and 707.

A Report of a Select Committee.

On the 8th of June, 1836, a select committee of the house of commons was appointed "to inquire into the different Modes in which Land has been and is at present disposed of in the Australian Colonies, in the Cape of Good Hope and the West Indies, with a view to ascertain that Mode, which would be most beneficial in future, both to the Colonies and to the Mother Country." There were fifteen members of the committee including Sir G. Grey, D. O'Connell, W. Gladstone, the O'Conor Don and H. L. Bulwer. The report was presented to and ordered by the house of commons to be printed on the 1st of August, 1836. The principal witnesses examined by the committee were E. G. Wakefield, Sir G. Grey and H. Torrens.

Note 195, page 712.

A Petition.

A copy of this petition will be found on page 516 *et seq.*

Note 196, page 722.

My despatch.

This despatch was numbered 160 and dated 26th May, 1836 (*see* page 428).

Note 197, page 722.

The same benefits.

The details of these "benefits" will be found in note 156, volume XVII.

Note 198, page 727.

The third case.

A previous instance was the ship *Canton*, which arrived with small-pox in September, 1835 (*see* page 97 *et seq.*).

Note 199, page 736.

Former correspondence.

The reference was to the despatch dated 9th July, 1835 (*see* page 8 *et seq.*).

Note 200, page 737.

His House and garden.

This house and garden were situated on the south-east of an elevation known as Batman's hill. This hill is now levelled. The site of the garden is now occupied by the building of the Australian Mutual Provident society on the corner of Collins and William streets, Melbourne.

Note 201, page 739.

Your communication.

This letter will be found on page 720.

Note 202, page 740.

His former application.

This application was transmitted with a despatch, dated 8th February, 1833 (*see* page 30, volume XVII).

Note 203, page 743.

This paper.

In a note on the original of this despatch, it is stated that this paper was removed by Sir Richard Bourke.

Note 204, page 743.

The scale of Salary.

This scale was detailed in section 2 of the act of council, 7 Wm. IV, No. 3. It provided that stipends should be granted to clergy of any denomination as follows:—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.

Note 205, page 745.

No answer.

A. E. Hayes was sentenced in 1829 to six months' imprisonment and to pay a fine of £100 for a libel, published in his newspaper, the *Australian* (see page viii, volume XIV). He was released from gaol in January, 1830 (see page 339, volume XV). It is probable that Governor Darling refused to consider his application for a land grant in the following October, because of his open opposition to the government.

Note 206, page 750.

The complaint.

The protest by J. Bingle was transmitted with the despatch, dated 28th February, 1836 (see page 306 *et seq.*).

Note 208, page 753.

Your Lordship's Despatch.

This despatch was dated 22nd August, 1836 (see page 501 *et seq.*).

Note 209, page 755.

H.M.'s Warrant.

A copy of this warrant will be found on pages 623 and 624, volume XIV.

Note 210, page 775.

The published narrative.

This volume was entitled *A Voyage to Torres Strait in search of the survivors of the ship "Charles Eaton," which was wrecked upon the Barrier Reefs in the month of August, 1834, in His Majesty's Colonial Schooner "Isabella," C. M. Lewis, Commander; arranged from the Journal and Log Book of the Commander, by authority of His Excellency Major General Sir Richard Bourke, K.C.B., Governor of New South Wales, etc., by P. P. King.* The volume contained xvii and eighty-nine pages octavo.

Note 211, page 778.

Surveying Vessel Beagle.

The *Beagle* was employed in the circumnavigation of the world. Charles Darwin was the naturalist on the staff, and, during the voyage, evolved the ideas which originated his theory of the origin of species.

Note 212, page 780.

My name.

The surname of Sir Richard Bourke is still retained as the name of the county on the northern shores of Port Phillip, in which the city of Melbourne is built.

Note 213, page 781.

Melbourne.

The name "Melbourne" was given in honour of William Lamb, second viscount Melbourne, who was prime minister of England.

Note 214, page 781.

100 allotments to be measured and offered for sale.

These allotments were sold on the 1st of June, 1837, together with seven allotments at Williamstown (*see* volume in series III).

Note 215, page 788.

The restoration of his Pension.

In 1797, Alexander Macleay was appointed head of the correspondence department of the transport board, and, in 1806, he was promoted to the secretaryship of the board. When the board was abolished in 1818, he was retired on a pension of £750 *per annum*. When he was appointed colonial secretary in 1825, it was arranged that this pension should be paid from the colonial revenues in addition to his official salary. The payment of a pension for services rendered in England was criticised adversely in the colony without result, until after the conclusion of his administration as colonial secretary, when payment was authorised from English revenues.

Note 216, page 792.

The Public Seal.

This was the seal, which was transmitted by the right hon. E. G. Stanley with his despatch dated 25th September, 1833 (*see* page 218, volume XVII).

SYNOPSIS.

SYNOPSIS OF DESPATCHES

The reference to the despatches marked "a" in the sixth column will be found on pages 623-5, volume XVII.

From	To	Dated	Despatch endorsed	Transmitted per—	See page	Acknowledged by—	Date of acknowledgment.
Hay, Under Secretary	Bourke, Sir Richard	1835, 2 July	No. 14	Ship Mary Ann	1		1836.
Glenelg, Lord	do	3 July	No. 15	do	3		
Do	do	4 July	No. 16	do	4		
Do	do	4 July	No. 17	do	4		
Do	do	5 July	No. 18	do	5		
Do	do	7 July	No. 20	do	a	Bourke, Sir Richard	20 Feb.
Do	do	7 July	Private	do	7	do	20 Feb.
Do	do	7 July		do	8		
Do	do	9 July	No. 21	do	a		
Glenelg, Lord	do	10 July	No. 22	Ship Royal Sovereign	8		
Do	do	11 July	No. 23	do	21		
Do	do	11 July	Separate	do	22		
Do	do	12 July	No. 19	Ship Mary Ann	23		
Do	do	12 July	No. 24	Ship Royal Sovereign	24		
Do	do	13 July	No. 25	do	25		
Do	do	14 July		do	26		
Do	do	15 July		do	33		
Grey, Sir George	do	15 July		do	33		
Bourke, Sir Richard	Aberdeen, Earl of	15 July	No. 59	Ship Bachelor	34		
Do	Bourke, Sir Richard	16 July		Ship Royal Sovereign	35		
Do	Aberdeen, Earl of	16 July	No. 69	Ship Bachelor	a		
Do	Bourke, Sir Richard	17 July		Ship Royal Sovereign	a		
Do	Aberdeen, Earl of	17 July	No. 61	Ship Bachelor	37	Glenelg, Lord	31 Jan.
Do	Bourke, Sir Richard	18 July		Ship Royal Sovereign	38	Bourke, Sir Richard	25 Jan.
Do	Aberdeen, Earl of	18 July	No. 62	Ship Bachelor	38	Glenelg, Lord	2 Jan.
Do	Bourke, Sir Richard	19 July		Ship Royal Sovereign	39		
Do	Aberdeen, Earl of	19 July	No. 63	Ship Bachelor	39	Glenelg, Lord	2 Feb.
Do	do	20 July	No. 64	do	40	do	3 Jan.
Do	do	21 July	No. 65	do	40	do	22 Jan.
Do	do	22 July	No. 66	do	41	do	4 Jan.
Do	do	23 July	No. 67	do	43	do	28 March.
Do	do	24 July	No. 68	do	47	do	15 Feb.
Do	do	25 July	No. 69	do	48	do	5 Jan.
Do	do	26 July	No. 70	do	51	do	26 Feb.

From	To	Dated	Despatch endorsed	Transmitted per—	See page	Acknowledged by—	Date of acknowledgment.
		1835.					
Bourke, Sir Richard	Aberdeen, Earl of	27 July	No. 71	Ship Bachelor	53	Glenelg, Lord	1836. 23 Jan.
Hay, Under Secretary	Bourke, Sir Richard	27 July	No. 26	do	a		
Glenelg, Lord	do	28 July	No. 27	do	54		
Do	do	29 July	No. 28	do	55		
Do	do	30 July	No. 29	do	55		
Do	do	31 July	Circular	do	56		
Bourke, Sir Richard	Hay, Under Secretary	31 July	No. 30	Ship Bachelor	56	Glenelg, Lord	30 Jan.
Glenelg, Lord	Bourke, Sir Richard	1 Aug.	Separate	Ship John Barry	57		
Bourke, Sir Richard	Aberdeen, Earl of	3 Aug.	No. 31	Ship Bachelor	57	Glenelg, Lord	26 Feb.
Glenelg, Lord	Bourke, Sir Richard	4 Aug.	No. 32	Ship John Barry	58		
Do	do	5 Aug.	No. 33	do	62		
Do	Aberdeen, Earl of	5 Aug.	No. 72	Ship Resource	63	Glenelg, Lord	5 March.
Bourke, Sir Richard	Bourke, Sir Richard	6 Aug.	No. 34	Ship John Barry	64		
Glenelg, Lord	Aberdeen, Earl of	6 Aug.	No. 73	Ship Resource	64		
Bourke, Sir Richard	Bourke, Sir Richard	7 Aug.	No. 35	Ship John Barry	65		
Glenelg, Lord	Aberdeen, Earl of	7 Aug.	No. 74	Ship Resource	66	Glenelg, Lord	17 April.
Bourke, Sir Richard	Bourke, Sir Richard	8 Aug.	No. 36	Ship John Barry	67		
Glenelg, Lord	Aberdeen, Earl of	8 Aug.	No. 75	Ship Resource	a		
Hay, Under Secretary	Bourke, Sir Richard	9 Aug.	No. 76	Ship John Barry	69		
Bourke, Sir Richard	Aberdeen, Earl of	9 Aug.	No. 37	Ship Resource	a		
Glenelg, Lord	Bourke, Sir Richard	10 Aug.	No. 77	Ship John Barry	a		
Bourke, Sir Richard	Aberdeen, Earl of	10 Aug.	No. 38	Ship Resource	a		
Glenelg, Lord	Bourke, Sir Richard	11 Aug.	No. 39	Ship John Barry	a		
Do	do	— Aug.	No. 78	do	a		
Bourke, Sir Richard	Aberdeen, Earl of	11 Aug.	No. 40	Ship Resource	70	Glenelg, Lord	6 Oct.
Glenelg, Lord	Bourke, Sir Richard	12 Aug.	No. 79	Ship John Barry	70		
Hay, Under Secretary	Aberdeen, Earl of	12 Aug.	No. 80	do	71		
Bourke, Sir Richard	do	12 Aug.	No. 81	Ship Resource	71		
Do	do	13 Aug.	No. 80	do	a		
Glenelg, Lord	do	14 Aug.	No. 41	do	74	Glenelg, Lord	10 March.
Do	Bourke, Sir Richard	15 Aug.	No. 42	Ship John Barry	75		
Bourke, Sir Richard	do	18 Aug.	No. 82	do	78		
Do	Aberdeen, Earl of	18 Aug.	No. 83	Ship Resource	79	Glenelg, Lord	17 March.
Do	do	18 Aug.	No. 84	do	80	do	6 March.
Glenelg, Lord	Bourke, Sir Richard	19 Aug.	No. 43	do	82	do	26 Feb.
Do	do	22 Aug.	No. 44	Ship John Barry	83		
Do	do			do	84		

From	To	Dated	Despatch endorsed	Transmitted per—	See page	Acknowledged by—	Date of acknowledgment.
Glenelg, Lord	Bourke, Sir Richard	1835.	No. 45	Ship John Barry	55		1836.
Hay, Under Secretary	do	28 Aug.	No. 46	do	85		.....
Glenelg, Lord	do	31 Aug.	No. 85	Ship Andromeda	88	Glenelg, Lord	.....
Bourke, Sir Richard	Aberdeen, Earl of	1 Sept.	No. 86	do	89	do	14 March.
Do	do	2 Sept.	No. 87	Ship John Barry	91	Bourke, Sir Richard	12 March.
Grey, Sir George	Bourke, Sir Richard	3 Sept.	No. 87	Ship Andromeda	93	Glenelg, Lord	10 May.
Bourke, Sir Richard	Aberdeen, Earl of	3 Sept.	No. 47	Ship John Barry	94		26 Feb.
Glenelg, Lord	Bourke, Sir Richard	5 Sept.	No. 48	do	94		.....
Do	do	5 Sept.	No. 88	Ship Andromeda	a		.....
Bourke, Sir Richard	Aberdeen, Earl of	6 Sept.	No. 89	do	a		.....
Do	do	7 Sept.	No. 90	do	a		.....
Do	do	8 Sept.	No. 49	Ship Susan	95	Bourke, Sir Richard	1 April.
Hay, Under Secretary	Bourke, Sir Richard	9 Sept.	No. 91	Ship John Barry	96		.....
Glenelg, Lord	do	9 Sept.	No. 91	Ship Andromeda	97		.....
Bourke, Sir Richard	Glenelg, Lord	9 Sept.	No. 91	Ship John Barry	a		.....
Hay, Under Secretary	Bourke, Sir Richard	10 Sept.	No. 91	Ship Susan	99		.....
Grey, Sir George	do	11 Sept.	No. 50	do	100		.....
Glenelg, Lord	do	18 Sept.	No. 92	Ship William Bryan	104		.....
Bourke, Sir Richard	Glenelg, Lord	18 Sept.	No. 92	Ship Susan	106		.....
Stephen, James	Bourke, Sir Richard	20 Sept.	No. 51	do	106		.....
Do	do	22 Sept.	No. 52	do	106		.....
Glenelg, Lord	do	25 Sept.	No. 53	do	107		.....
Do	do	28 Sept.	No. 53	do	107		.....
Do	do	30 Sept.	Circular	Ship Recovery	110		.....
Do	do	30 Sept.	Circular	Ship Spence	110	Glenelg, Lord	29 March.
Bourke, Sir Richard	Glenelg, Lord	3 Oct.	No. 93	do	131	do	9 April.
Do	do	4 Oct.	No. 94	do	a		.....
Glenelg, Lord	Bourke, Sir Richard	6 Oct.	No. 54	Ship Recovery	131	Glenelg, Lord	23 April.
Bourke, Sir Richard	Glenelg, Lord	6 Oct.	No. 95	Ship Recovery	a		.....
Bourke, Sir Richard	Bourke, Sir Richard	7 Oct.	No. 96	Ship Spence	135	Glenelg, Lord	9 April.
Hay, Under Secretary	Glenelg, Lord	7 Oct.	No. 96	Ship Recovery	150		.....
Bourke, Sir Richard	Bourke, Sir Richard	8 Oct.	No. 97	Ship Spence	152	Glenelg, Lord	27 April.
Hay, Under Secretary	Glenelg, Lord	8 Oct.	No. 97	Ship Recovery	152	Bourke, Sir Richard	26 Feb.
Bourke, Sir Richard	Bourke, Sir Richard	9 Oct.	No. 98	Ship Spence	153		.....
Glenelg, Lord	Glenelg, Lord	9 Oct.	No. 98	Ship Spence	153		.....
Bourke, Sir Richard	Bourke, Sir Richard	10 Oct.	No. 56	Ship Recovery	153		.....
Glenelg, Lord	Glenelg, Lord	10 Oct.	No. 99	Ship Spence	153	Glenelg, Lord	13 April.
Bourke, Sir Richard	Bourke, Sir Richard	10 Oct.	No. 57	Ship Recovery	158		.....
Glenelg, Lord	Bourke, Sir Richard	11 Oct.	No. 57	Ship Recovery	158	Glenelg, Lord	29 April.
Bourke, Sir Richard	Glenelg, Lord	11 Oct.	No. 100	Ship Spence	158	Glenelg, Lord

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		1835.	No. 58	Ship Recovery	159		1836.
Glenelg, Lord	Bourke, Sir Richard	12 Oct.	No. 101	Ship Spence	159	Glenelg, Lord	12 April
Bourke, Sir Richard	Glenelg, Lord	13 Oct.	No. 59	Ship Recovery	160		
Glenelg, Lord	Bourke, Sir Richard	14 Oct.	No. 60	do	160		
Bourke, Sir Richard	Glenelg, Lord	14 Oct.	No. 102	Ship Spence	161	Glenelg, Lord	18 Sept.
Glenelg, Lord	Bourke, Sir Richard	15 Oct.	No. 61	Ship Recovery	164		
Bourke, Sir Richard	Glenelg, Lord	15 Oct.	No. 103	Ship Spence	165		
Glenelg, Lord	Bourke, Sir Richard	16 Oct.	No. 62	Ship Recovery	166		
Bourke, Sir Richard	Hay, Under Secretary	16 Oct.	No. 63	Ship Spence	167		
Glenelg, Lord	Bourke, Sir Richard	20 Oct.	No. 104	Ship Recovery	168	Bourke, Sir Richard	9 June.
Bourke, Sir Richard	Glenelg, Lord	20 Oct.	No. 105	Ship Florentia	a		
Do	do	21 Oct.	No. 64	do	a		
Hay, Under Secretary	Bourke, Sir Richard	26 Oct.	No. 64	Ship Henry Tamer	a		
Glenelg, Lord	do	27 Oct.	No. 65	do	169		
Do	do	27 Oct.	Circular	do	170		
Do	do	28 Oct.	No. 65	do	170		
Do	do	31 Oct.	No. 66	do	a		
Do	do	1 Nov.	No. 67	Ship Strathfieldsaye	174		
Bourke, Sir Richard	Glenelg, Lord	1 Nov.	No. 106	Ship Florentia	a		
Glenelg, Lord	Bourke, Sir Richard	2 Nov.	No. 68	Ship Strathfieldsaye	179		
Bourke, Sir Richard	Glenelg, Lord	2 Nov.	No. 107	Ship Florentia	184	Glenelg, Lord	20 April
Glenelg, Lord	Bourke, Sir Richard	3 Nov.	No. 69	Ship Strathfieldsaye	184		
Do	do	5 Nov.	No. 70	do	185		
Do	do	11 Nov.	No. 71	do	186		
Do	do	12 Nov.	No. 72	do	a		
Do	do	13 Nov.	No. 73	do	187		
Do	do	14 Nov.	No. 74	do	188		
Do	do	15 Nov.	No. 75	do	188		
Do	do	15 Nov.	Circular	do	a		
Do	do	15 Nov.	No. 76	do	189		
Do	do	16 Nov.	No. 77	do	a		
Do	do	17 Nov.	No. 78	do	a		
Do	do	18 Nov.	No. 79	do	192		
Do	do	19 Nov.	No. 108	Ship Susanna	192		
Bourke, Sir Richard	Glenelg, Lord	20 Nov.	No. 109	do	193	Glenelg, Lord	18 Aug.
Do	Hay, Under Secretary	20 Nov.	No. 110	do	194	do	7 Sept.
Do	Glenelg, Lord	21 Nov.	No. 111	do	194		
Do	do	22 Nov.	No. 112	do	a		
Do	do	23 Nov.		do	a		
Do	do	24 Nov.		do	a		

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Glenelg, Lord	Bourke, Sir Richard	1835,	No. 80	Ship Strathfieldsaye	198	1836.
Bourke	Glenelg, Lord	26 Nov.	No. 113	Ship Susanna	199	Glenelg, Lord	23 May.
Do	do	27 Nov.	No. 114	do	200	do	15 Aug.
Do	do	28 Nov.	No. 115	do	a	.....	.....
Glenelg, Lord	Bourke, Sir Richard	30 Nov.	No. 81	Ship Henry Tanner	201	.....	1837.
Do	do	30 Nov.	No. 82	do	207	Bourke, Sir Richard	11 April.
Do	do	30 Nov.	Separate	do	210	.....	.....
Bourke, Sir Richard	Glenelg, Lord	1 Nov.	No. 116	Ship Susanna	214	.....	.....
Glenelg, Lord	Bourke, Sir Richard	30 Dec.	No. 83	Ship Strathfieldsaye	214	.....	1836.
Bourke, Sir Richard	Glenelg, Lord	1 Dec.	Separate	Ship Susanna	216	Glenelg, Lord	23 May.
Do	do	2 Dec.	No. 117	do	216	do	2 June.
Do	do	2 Dec.	No. 118	do	a	.....	.....
Do	do	2 Dec.	Separate	do	223	Glenelg, Lord	.....
Glenelg, Lord	Bourke, Sir Richard	8 Dec.	No. 84	Ship Strathfieldsaye	224	.....	.....
Do	do	9 Dec.	No. 85	do	225	.....	.....
Do	do	10 Dec.	No. 86	do	225	.....	.....
Do	do	13 Dec.	No. 87	do	227	.....	.....
Bourke, Sir Richard	Glenelg, Lord	18 Dec.	No. 119	Ship Hercules	228	Glenelg, Lord	21 Oct.
Do	do	20 Dec.	No. 120	do	232	.....	.....
Glenelg, Lord	Bourke, Sir Richard	21 Dec.	No. 88	Ship Strathfieldsaye	233	Bourke, Sir Richard	18 June.
Bourke, Sir Richard	Glenelg, Lord	21 Dec.	No. 121	Ship Hercules	234	Glenelg, Lord	18 June.
Glenelg, Lord	Bourke, Sir Richard	22 Dec.	Circular	Ship Strathfieldsaye	235	.....	.....
Bourke, Sir Richard	Glenelg, Lord	22 Dec.	No. 122	Ship Hercules	235	.....	.....
Do	do	23 Dec.	No. 123	do	237	Glenelg, Lord	14 Aug.
Glenelg, Lord	Bourke, Sir Richard	24 Dec.	No. 89	Ship Strathfieldsaye	238	Glenelg, Lord	25 Nov.
Bourke, Sir Richard	Glenelg, Lord	24 Dec.	No. 124	Ship Hercules	239	.....	.....
Bourke, Sir Richard	Bourke, Sir Richard	25 Dec.	No. 90	Ship Strathfieldsaye	242	.....	.....
Bourke, Sir Richard	Glenelg, Lord	25 Dec.	No. 125	Ship Hercules	a	.....	.....
Glenelg, Lord	Bourke, Sir Richard	26 Dec.	No. 91	Ship Strathfieldsaye	243	.....	.....
Bourke, Sir Richard	Glenelg, Lord	26 Dec.	No. 126	Ship Hercules	244	.....	.....
Do	do	26 Dec.	No. 127	do	246	Glenelg, Lord	11 Aug.
Do	do	26 Dec.	No. 128	do	250	.....	.....
Do	do	26 Dec.	Separate	do	251	.....	.....
Glenelg, Lord	Bourke, Sir Richard	30 Dec.	Circular	Ship Strathfieldsaye	252	.....	.....
Do	do	30 Dec.	Circular	do	253
Grey, Sir George	do	31 Dec.	Ship Westmoreland	253

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		1836.	No. 1	Ship Fortune	256		1836.
Bourke, Sir Richard	Glennelg, Lord	1 Jan.	No. 2	Ship Strathfieldsaye	257	
Glennelg, Lord	Bourke, Sir Richard	3 Jan.	No. 93	do	257		.....
Do	do	4 Jan.	No. 94	do	257		.....
Do	do	5 Jan.	No. 95	do	258		.....
Bourke, Sir Richard	Glennelg, Lord	5 Jan.	No. 2	Ship Fortune	259		.....
Do	do	6 Jan.	No. 3	do	259		.....
Do	do	8 Jan.	No. 4	do	255		.....
Do	do	11 Jan.	No. 5	do	200		.....
Glennelg, Lord	Bourke, Sir Richard	20 Jan.	No. 96	Ship Strathfieldsaye	253		.....
Bourke, Sir Richard	Glennelg, Lord	20 Jan.	No. 6	Ship Fortune	260		.....
Glennelg, Lord	Bourke, Sir Richard	21 Jan.	No. 97	Ship Strathfieldsaye	262	Bourke, Sir Richard	8 Oct.
Do	do	22 Jan.	No. 98	do	263		.....
Do	do	23 Jan.	No. 99	do	263		.....
Bourke, Sir Richard	Glennelg, Lord	24 Jan.	No. 7	Ship Fortune	264		.....
Do	do	24 Jan.	No. 8	do	255		.....
Do	do	25 Jan.	No. 9	do	265	Glennelg, Lord	16 Aug.
Do	Hay, Under Secretary	25 Jan.	No. 100	do	266		.....
Glennelg, Lord	Glennelg, Lord	26 Jan.	No. 10	Ship Strathfieldsaye	273		.....
Bourke, Sir Richard	Bourke, Sir Richard	30 Jan.	No. 10	Ship Fortune	273		.....
Glennelg, Lord	Glennelg, Lord	31 Jan.	No. 101	Ship Camden	253		.....
Glennelg, Lord	Bourke, Sir Richard	31 Jan.	No. 102	do	273		.....
Do	do	31 Jan.	No. 103	Ship Strathfieldsaye	282		.....
Do	do	31 Jan.	No. 11	Ship Fortune	255		.....
Bourke, Sir Richard	Glennelg, Lord	31 Jan.	Separate	do	282		.....
Do	do	31 Jan.	No. 104	Ship Strathfieldsaye	283		.....
Glennelg, Lord	Bourke, Sir Richard	1 Feb.	No. 12	Ship Fortune	255		.....
Bourke, Sir Richard	Glennelg, Lord	1 Feb.	No. 105	do	286		.....
Do	Hay, Under Secretary	1 Feb.	No. 105	Ship Strathfieldsaye	287		.....
Glennelg, Lord	Bourke, Sir Richard	2 Feb.	No. 13	Ship Fortune	255		.....
Bourke, Sir Richard	Glennelg, Lord	2 Feb.	No. 14	do	255		.....
Do	do	2 Feb.	No. 15	do	255		.....
Do	do	3 Feb.	No. 16	do	288		.....
Glennelg, Lord	Bourke, Sir Richard	5 Feb.	No. 106	Ship Strathfieldsaye	289	Bourke, Sir Richard	10 Sept.
Bourke, Sir Richard	Glennelg, Lord	10 Feb.	No. 17	Ship City of Edinburgh	290	Glennelg, Lord	18 Sept.
Glennelg, Lord	Bourke, Sir Richard	12 Feb.	No. 107	Ship Camden	253		.....
Do	do	13 Feb.	No. 108	do	291	
Do	do	14 Feb.	No. 109	do	291	
Do	do	15 Feb.	No. 110	Ship Lord Godertich	293	

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Bourke, Sir Richard	Glenelg, Lord	1836, 20 Feb.	No. 18	Ship City of Edinburgh.	255	1836.
Do	do	21 Feb.	No. 19	do	255	.....	.....
Do	do	22 Feb.	No. 20	do	294	Glenelg, Lord	17 Aug.
Do	do	23 Feb.	No. 21	do	294	do	22 Sept.
Do	do	24 Feb.	No. 22	do	296	do	19 Aug.
Do	do	25 Feb.	No. 23	do	297	Bourke, Sir Richard	16 Sept.
Glenelg, Lord	Bourke, Sir Richard	26 Feb.	No. 111	Ship Lord Goderich.....	298	.....	.....
Do	do	26 Feb.	No. 112	do	298	.....	.....
Do	do	26 Feb.	No. 113	do	299	.....	.....
Do	do	26 Feb.	No. 114	do	299	.....	.....
Do	do	26 Feb.	No. 115	do	300	.....	.....
Bourke, Sir Richard	Glenelg, Lord	26 Feb.	No. 24	Ship City of Edinburgh.	300	Glenelg, Lord	11 Aug.
Glenelg, Lord	Bourke, Sir Richard	27 Feb.	No. 116	Ship Lord Goderich.....	301	.....	.....
Bourke, Sir Richard	Glenelg, Lord	27 Feb.	No. 25	Ship City of Edinburgh.	301	.....	.....
Glenelg, Lord	Bourke, Sir Richard	28 Feb.	No. 117	Ship Lord Goderich.....	301	.....	.....
Bourke, Sir Richard	Glenelg, Lord	28 Feb.	No. 26	Ship City of Edinburgh.	302	Glenelg, Lord	18 Sept.
Do	do	28 Feb.	No. 27	do	302	do	30 Aug.
Do	do	28 Feb.	No. 28	do	303	do	25 Aug.
Do	do	28 Feb.	No. 29	do	306	Bourke, Sir Richard	22 Aug.
Glenelg, Lord	Bourke, Sir Richard	29 Feb.	No. 118	Ship Lord Goderich.....	332	.....	.....
Grey, Sir George	do	29 Feb.	No. 119	do	333	.....	.....
Glenelg, Lord	do	1 Mar.	No. 30	do	333	.....	.....
Bourke, Sir Richard	Glenelg, Lord	1 Mar.	No. 120	Ship City of Edinburgh.	333	Bourke, Sir Richard	20 Nov.
Glenelg, Lord	Bourke, Sir Richard	2 Mar.	No. 31	Ship Lord Goderich.....	253	Glenelg, Lord	22 Aug.
Bourke, Sir Richard	Glenelg, Lord	2 Mar.	No. 121	Ship City of Edinburgh.	253	.....	.....
Glenelg, Lord	Bourke, Sir Richard	3 Mar.	No. 32	Ship Lord Goderich.....	253	.....	.....
Bourke, Sir Richard	Glenelg, Lord	3 Mar.	No. 33	Ship City of Edinburgh.	342	Glenelg, Lord	18 Sept.
Do	do	4 Mar.	No. 122	do	345	.....	.....
Glenelg, Lord	Bourke, Sir Richard	5 Mar.	No. 34	Ship Moffatt	347	.....	.....
Bourke, Sir Richard	Glenelg, Lord	5 Mar.	No. 123	Ship Auriga	255	.....	.....
Glenelg, Lord	Bourke, Sir Richard	6 Mar.	No. 124	Ship Moffatt	349	.....	.....
Do	do	7 Mar.	No. 125	do	350	Bourke, Sir Richard	1 Sept.
Do	do	8 Mar.	No. 126	do	253	.....	.....
Do	do	10 Mar.	No. 35	do	351	.....	.....
Bourke, Sir Richard	Glenelg, Lord	10 Mar.	No. 127	Ship Auriga	352	Glenelg, Lord	26 Aug.
Glenelg, Lord	Bourke, Sir Richard	11 Mar.	No. 128	Ship Moffatt	253	.....	.....
Do	do	12 Mar.	No. 129	do	355	.....	.....
Do	do	14 Mar.	No. 130	do	355	.....	.....
Bourke, Sir Richard	Glenelg, Lord	15 Mar.	No. 36	Ship Kinneair	356	Glenelg, Lord	12 Aug.

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Bourke, Sir Richard	Glenelg, Lord	1836. 16 Mar.	No. 37	Ship Kinnear	358	1836.
Glenelg, Lord	Bourke, Sir Richard	17 Mar.	No. 130	Ship Moffatt	358
Bourke, Sir Richard	Glenelg, Lord	17 Mar.	No. 38	Ship Kinnear	255	.....	.....
Do	do	18 Mar.	No. 39	do	360	Glenelg, Lord	30 Nov.
Glenelg, Lord	Bourke, Sir Richard	24 Mar.	No. 131	Ship Moffatt	253	.....	.....
Do	do	25 Mar.	No. 132	do	360	Bourke, Sir Richard	10 Nov.
Do	do	26 Mar.	No. 133	do	361	.....	.....
Do	do	27 Mar.	No. 134	do	363	Bourke, Sir Richard	27 Dec.
Do	do	28 Mar.	No. 135	do	364	.....	.....
Do	do	29 Mar.	No. 136	do	364	.....	.....
Bourke, Sir Richard	Hay, Under Secretary	1 April	.....	Ship Kinnear	366	Glenelg, Lord	31 Aug. 1837.
Glenelg, Lord	Bourke, Sir Richard	2 April	No. 137	Ship Moffatt	368	Bourke, Sir Richard	8 June.
Bourke, Sir Richard	Glenelg, Lord	2 April	No. 40	Ship Augustus Caesar	368	.....	.....
Do	do	3 April	No. 41	Ship Brothers	369	.....	.....
Do	do	4 April	No. 42	do	255	.....	.....
Do	do	5 April	No. 43	do	371	Glenelg, Lord	1836. 16 Sept.
Glenelg, Lord	Bourke, Sir Richard	7 April	No. 138	Ship Moffatt	372	Glenelg, Lord	27 Aug.
Do	do	9 April	No. 139	do	374	.....	.....
Do	do	11 April	No. 140	do	375	.....	.....
Do	do	12 April	No. 141	do	375	.....	.....
Do	do	12 April	No. 44	do	376	.....	.....
Do	do	12 April	Separate	do	377	.....	.....
Glenelg, Lord	Bourke, Sir Richard	13 April	No. 142	Ship Brothers	379	Glenelg, Lord	9 Nov.
Bourke, Sir Richard	Glenelg, Lord	13 April	No. 45	Ship Moffatt	391	do	9 Nov.
Bourke, Sir Richard	Bourke, Sir Richard	15 April	Circular	Ship Brothers	403	Bourke, Sir Richard	15 Sept.
Glenelg, Lord	Bourke, Sir Richard	15 April	No. 46	Ship Moffatt	405	.....	.....
Bourke, Sir Richard	Bourke, Sir Richard	16 April	No. 143	Ship Brothers	253	Glenelg, Lord	3 Sept.
Do	do	17 April	No. 144	do	406	.....	.....
Do	do	18 April	No. 145	do	406	.....	.....
Do	do	20 April	No. 146	do	406	.....	.....
Bourke, Sir Richard	Glenelg, Lord	20 April	No. 47	Ship Governor Harcourt	407	.....	.....
Glenelg, Lord	Bourke, Sir Richard	21 April	No. 147	Ship Moffatt	407	.....	.....
Do	do	22 April	No. 148	do	407	.....	.....
Do	do	23 April	No. 149	do	408	.....	.....
Bourke, Sir Richard	Glenelg, Lord	25 April	No. 48	Ship Governor Harcourt	469	.....	.....
Glenelg, Lord	Bourke, Sir Richard	27 April	No. 150	Ship Moffatt	469
Do	do	29 April	No. 151	do	410

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Bourke, Sir Richard	Glenelg, Lord	1836. 30 April	No. 49	Ship Governor Harcourt	410		1836.
Do	do	1 May	No. 50	Ship Platina	411		.....
Do	do	2 May	No. 51	do	255		.....
Do	do	5 May	No. 52	do	411		.....
Glenelg, Lord	Bourke, Sir Richard	7 May	No. 152	Ship Duchess of Northumberland.	412	Bourke, Sir Richard	24 Nov.
Do	do	9 May	No. 153	do	413	do	1 Dec.
Bourke, Sir Richard	Glenelg, Lord	10 May	No. 53	Ship Platina	414		.....
Do	Grey, Sir George	10 May	.....	do	418	Glenelg, Lord	1837. 3 Jan.
Glenelg, Lord	Bourke, Sir Richard	12 May	No. 154	Ship Duchess of Northumberland.	418		.....
Bourke, Sir Richard	Glenelg, Lord	12 May	No. 54	Ship Platina	423		1836. 3 Dec.
Do	Grey, Sir George	12 May	.....	do	255		.....
Do	Glenelg, Lord	13 May	No. 55	do	255		.....
Glenelg, Lord	Bourke, Sir Richard	14 May	No. 155	Ship Duchess of Northumberland.	424		.....
Do	do	14 May	No. 156	do	424		.....
Bourke, Sir Richard	Glenelg, Lord	14 May	No. 56	do	255		.....
Do	do	15 May	No. 57	do	255		.....
Glenelg, Lord	Bourke, Sir Richard	23 May	No. 157	Ship Lady Kennaway	424		.....
Do	do	24 May	No. 158	do	425		.....
Do	do	25 May	No. 159	do	427		.....
Do	do	26 May	No. 160	do	428		.....
Do	do	27 May	No. 161	do	429		.....
Bourke, Sir Richard	Glenelg, Lord	1 June	No. 58	Ship William Inglis.	255		.....
Glenelg, Lord	Bourke, Sir Richard	2 June	No. 162	Ship Lady Kennaway	429	Bourke, Sir Richard	9 Sept.
Do	do	6 June	No. 163	do	253		.....
Do	do	8 June	No. 164	do	430		.....
Bourke, Sir Richard	Glenelg, Lord	9 June	No. 59	Ship William Inglis.	432		.....
Do	do	10 June	No. 60	do	436	Glenelg, Lord	1837. 30 April.
Do	do	11 June	No. 61	do	439	do	1 Dec. 1837.
Do	do	11 June	No. 66	do	440	
Do	do	12 June	No. 62	do	441	
Do	do	13 June	No. 63	do	441	
Do	do	14 June	No. 64	do	255	

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Bourke, Sir Richard	Glenelg, Lord	1836, 15 June	No. 65	Ship William Inglis.....	442	Glenelg, Lord	1837, 15 Nov.
Glenelg, Lord	Bourke, Sir Richard	16 June	No. 165	Ship Lady Kennaway ...	253	.....	.....
Do	do	17 June	No. 166	do	253	.....	.....
Bourke, Sir Richard	Glenelg, Lord	17 June	No. 67	Ship William Inglis.....	443	Glenelg, Lord	16 Feb., 1836,
Do	do	17 June	No. 68	do	445	do	31 Dec.
Glenelg, Lord	Bourke, Sir Richard	18 June	No. 167	Ship Lady Kennaway ...	445	.....	.....
Bourke, Sir Richard	Glenelg, Lord	18 June	No. 69	Ship William Inglis.....	445	.....	.....
Glenelg, Lord	Bourke, Sir Richard	19 June	No. 168	Ship Bengal Merchant..	253	Glenelg, Lord	1 Dec.
Do	do	21 June	No. 170	do	446	.....	.....
Do	do	29 June	No. 169	do	254	.....	.....
Bourke, Sir Richard	Glenelg, Lord	1 July	No. 70	Ship Abel Gower	447	Glenelg, Lord	10 Dec.
Do	do	5 July	No. 71	do	447	do	5 Dec.
Glenelg, Lord	Bourke, Sir Richard	5 July	No. 171	Ship Bengal Merchant..	254	.....	.....
Do	do	7 July	Separate	do	448	.....	.....
Do	do	8 July	No. 172	do	254	.....	.....
Do	do	9 July	No. 173	do	254	.....	.....
Do	do	10 July	No. 174	do	254	.....	.....
Bourke, Sir Richard	Glenelg, Lord	10 July	No. 72	Ship Abel Gower	255	.....	.....
Glenelg, Lord	Bourke, Sir Richard	12 July	No. 175	Ship Bengal Merchant..	255	.....	.....
Bourke, Sir Richard	Glenelg, Lord	15 July	No. 73	Ship Abel Gower	448	Glenelg, Lord	28 Dec.
Glenelg, Lord	Bourke, Sir Richard	16 July	No. 176	Ship Bengal Merchant..	449	.....	.....
Bourke, Sir Richard	Glenelg, Lord	20 July	No. 74	Ship Abel Gower	450	Glenelg, Lord	1837, 5 Jan.
Do	do	21 July	No. 75	do	451	.....	.....
Glenelg, Lord	Bourke, Sir Richard	22 July	No. 177	Ship Bengal Merchant..	451	.....	.....
Bourke, Sir Richard	Glenelg, Lord	22 July	No. 76	Ship Abel Gower	452	Glenelg, Lord	1836, 28 Dec.
Do	do	23 July	No. 77	do	452	.....	.....
Do	do	24 July	No. 78	do	453	.....	.....
Do	do	25 July	No. 79	do	453	Glenelg, Lord	1837, 7 Feb.
Do	do	25 July	No. 80	do	255	.....	.....
Do	do	25 July	No. 81	do	456	.....	.....
Do	do	25 July	Separate	do	457	Glenelg, Lord	1836, 10 Dec.
Do	do	25 July	No. 82	do	458	do	1837, 30 April.
Glenelg, Lord	Bourke, Sir Richard	26 July	No. 178	Ship Fortune.....	254

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Glenelg, Lord	Bourke, Sir Richard	1836. 28 July	No. 179	Ship Fortune	254		1837.
Do	do	31 July	No. 180	do	458		
Bourke, Sir Richard	Glenelg, Lord	1 Aug.	No. 83	Ship Elizabeth	462		
Do	do	2 Aug.	No. 84	do	255		
Do	do	7 Aug.	No. 85	do	464	Glenelg, Lord	30 April.
Do	do	8 Aug.	No. 86	do	466	do	27 Feb.
Do	do	8 Aug.	Separate	do	474		
Do	do	10 Aug.	No. 87	do	479		
Glenelg, Lord	Bourke, Sir Richard	11 Aug.	No. 181	Ship Fortune	479	Glenelg, Lord	22 April.
Do	do	11 Aug.	Confidentl.	do	483		
Do	do	11 Aug.	No. 182	do	484		
Do	do	11 Aug.	No. 183	do	485		
Bourke, Sir Richard	Glenelg, Lord	11 Aug.	No. 88	Ship Elizabeth	255		
Glenelg, Lord	Bourke, Sir Richard	12 Aug.	No. 184	Ship John	485		
Bourke, Sir Richard	Glenelg, Lord	12 Aug.	No. 89	Ship Elizabeth	255		
Glenelg, Lord	Bourke, Sir Richard	13 Aug.	No. 185	Ship John	486		
Bourke, Sir Richard	Glenelg, Lord	13 Aug.	No. 90	Ship Elizabeth	496		
Bourke, Sir Richard	Glenelg, Lord	14 Aug.	No. 186	Ship John	497	Glenelg, Lord	26 March.
Do	do	15 Aug.	No. 187	do	497		
Do	do	15 Aug.	No. 91	do	254		
Bourke, Sir Richard	Glenelg, Lord	15 Aug.	No. 91	Ship Elizabeth	497	Glenelg, Lord	15 April.
Do	Grey, Sir George	15 Aug.	No. 188	do	255		
Glenelg, Lord	Bourke, Sir Richard	16 Aug.	No. 188	Ship John	498		
Do	do	17 Aug.	No. 189	do	498		
Do	do	18 Aug.	No. 190	do	499		
Do	do	19 Aug.	No. 191	do	499		
Do	do	20 Aug.	No. 192	do	500		
Do	do	20 Aug.	No. 92	do	255		
Bourke, Sir Richard	Glenelg, Lord	20 Aug.	No. 193	Ship Elizabeth	500		
Glenelg, Lord	Bourke, Sir Richard	21 Aug.	No. 193	Ship John	500		
Do	do	22 Aug.	No. 194	do	501		
Do	do	23 Aug.	No. 195	do	505		
Do	do	24 Aug.	No. 196	do	254		
Do	do	25 Aug.	No. 197	do	505		
Do	do	26 Aug.	No. 198	do	506	Bourke, Sir Richard	9 Sept.
Do	do	27 Aug.	No. 199	do	506		
Do	do	28 Aug.	No. 200	do	507		
Do	do	29 Aug.	No. 201	do	507		
Do	do	30 Aug.	No. 202	do	508		
Do	do	31 Aug.	No. 203	do	511	Bourke, Sir Richard	12 Feb.

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		1836.					1837.
Glenelg, Lord	Bourke, Sir Richard	31 Aug.	Circular	Ship John	511	Bourke, Sir Richard	15 May.
Do	do	1 Sept.	No. 204	do	512	Glenelg, Lord	7 April.
Bourke, Sir Richard	Glenelg, Lord	1 Sept.	No. 93	Ship William Harris	513		
Glenelg, Lord	Bourke, Sir Richard	2 Sept.	No. 205	Ship John	513		
Bourke, Sir Richard	Glenelg, Lord	2 Sept.	No. 94	Ship William Harris	525	Glenelg, Lord	14 April.
Glenelg, Lord	Bourke, Sir Richard	3 Sept.	No. 206	Ship John	526		
Do	do	5 Sept.	No. 207	do	264	Bourke, Sir Richard	24 July.
Do	do	6 Sept.	No. 208	do	526		
Do	do	7 Sept.	No. 209	do	527	Glenelg, Lord	19 April.
Bourke, Sir Richard	Glenelg, Lord	9 Sept.	No. 95	Ship William Harris	533	do	4 May.
Do	do	10 Sept.	No. 96	do	535	do	19 May.
Do	do	11 Sept.	No. 97	do	255		
Do	do	12 Sept.	No. 98	do	535	Glenelg, Lord	13 April.
Do	do	13 Sept.	No. 99	do	535	do	29 Aug.
Do	do	14 Sept.	No. 100	do	540		
Glenelg, Lord	Bourke, Sir Richard	15 Sept.	Circular	Ship John	540	Glenelg, Lord	31 May.
Bourke, Sir Richard	Glenelg, Lord	15 Sept.	No. 101	Ship William Harris	542		
Glenelg, Lord	Bourke, Sir Richard	16 Sept.	No. 210	Ship John	542	Glenelg, Lord	17 June.
Bourke, Sir Richard	Glenelg, Lord	16 Sept.	No. 102	Ship William Harris	255		
Do	do	17 Sept.	No. 103	do	545		
Glenelg, Lord	Bourke, Sir Richard	18 Sept.	No. 211	Ship John	557	Glenelg, Lord	30 April.
Bourke, Sir Richard	Glenelg, Lord	18 Sept.	No. 104	Ship William Harris	557	Bourke, Sir Richard	2 July.
Glenelg, Lord	Bourke, Sir Richard	20 Sept.	No. 212	Ship John	557	Glenelg, Lord	29 April.
Bourke, Sir Richard	Glenelg, Lord	20 Sept.	No. 105	Ship William Harris	558		
Glenelg, Lord	Bourke, Sir Richard	21 Sept.	No. 213	Ship John	560		
Do	do	22 Sept.	No. 214	do	255		
Do	Glenelg, Lord	30 Sept.	No. 106	Ship William Harris	562	Glenelg, Lord	12 April.
Do	do	1 Oct.	No. 107	do	255		
Do	Grey, Sir George	1 Oct.	No. 108	do	564		
Do	Glenelg, Lord	5 Oct.	No. 215	Ship Norfolk	564		
Bourke, Sir Richard	Bourke, Sir Richard	6 Oct.	No. 215	do	565		
Glenelg, Lord	Glenelg, Lord	7 Oct.	Separate	Ship William Harris	571	Glenelg, Lord	9 May.
Do	do	8 Oct.	No. 109	do	255		
Do	do	9 Oct.	No. 110	do	254		
Glenelg, Lord	Bourke, Sir Richard	10 Oct.	No. 216	Ship Norfolk	572	Glenelg, Lord	8 April.
Bourke, Sir Richard	Glenelg, Lord	10 Oct.	No. 111	Ship William Harris	573		
Do	do	11 Oct.	No. 112	do	255		
Do	do	12 Oct.	No. 113	do	255		

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		1836.					1837.
Bourke, Sir Richard	Glenelg, Lord	14 Oct.	No. 114	Ship William Harris	574
Glenelg, Lord	Bourke, Sir Richard	21 Oct.	No. 220	Ship Norfolk	576	.....	.....
Do	do	28 Oct.	No. 221	do	254	.....	.....
Do	do	30 Oct.	No. 222	Ship Prince George	577	Bourke, Sir Richard	15 Sept.
Do	do	31 Oct.	No. 223	do	577	.....	.....
Do	do	31 Oct.	No. 224	do	578	.....	.....
Bourke, Sir Richard	Glenelg, Lord	1 Nov.	No. 115	Ship Vestal	580	Glenelg, Lord	14 Oct.
Do	do	2 Nov.	No. 116	do	255	.....	.....
Do	do	3 Nov.	No. 117	do	580	Glenelg, Lord	3 Oct.
Do	do	4 Nov.	No. 118	do	581	do	14 July.
Glenelg, Lord	Bourke, Sir Richard	8 Nov.	No. 225	Ship Prince George	583	.....	.....
Do	do	9 Nov.	No. 226	do	585	.....	.....
Do	do	10 Nov.	No. 227	do	586	.....	.....
Do	do	10 Nov.	No. 228	do	586	.....	.....
Do	do	10 Nov.	No. 119	Ship Vestal	586	.....	.....
Bourke, Sir Richard	Glenelg, Lord	11 Nov.	Circular	Ship Mangles	587	.....	.....
Glenelg, Lord	Bourke, Sir Richard	11 Nov.	No. 120	Ship Vestal	587	.....	.....
Bourke, Sir Richard	Glenelg, Lord	12 Nov.	No. 121	do	588	.....	.....
Do	do	15 Nov.	No. 122	do	590	Glenelg, Lord	24 July.
Do	do	20 Nov.	No. 123	do	591	.....	.....
Do	do	21 Nov.	No. 124	do	591	.....	.....
Do	do	21 Nov.	.....	do	255	.....	.....
Do	Under Secretary	22 Nov.	No. 125	do	593	Glenelg, Lord	24 July.
Do	Glenelg, Lord	23 Nov.	No. 126	do	600	do	15 Aug.
Do	do	24 Nov.	No. 127	do	600	do	1838.
Glenelg, Lord	Bourke, Sir Richard	25 Nov.	No. 229	Ship Prince George	601	.....	8 March.
Bourke, Sir Richard	Glenelg, Lord	25 Nov.	No. 128	Ship Vestal	255	.....	.....
Do	do	26 Nov.	No. 129	do	255	.....	.....
Do	do	27 Nov.	No. 130	do	255	.....	.....
Do	do	28 Nov.	No. 131	do	255	.....	.....
Do	do	29 Nov.	No. 132	do	603	Glenelg, Lord	1837.
Glenelg, Lord	Bourke, Sir Richard	30 Nov.	No. 230	Ship Prince George	604	.....	24 June.
Do	do	30 Nov.	No. 231	do	605	.....	.....
Do	do	30 Nov.	No. 232	do	254	.....	.....
Bourke, Sir Richard	Glenelg, Lord	30 Nov.	No. 133	Ship Vestal	605	Glenelg, Lord	23 July.
Glenelg, Lord	Bourke, Sir Richard	1 Dec.	No. 233	Ship Prince George	606

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Bourke, Sir Richard	Glenelg, Lord	1836. 1 Dec.	No. 134	Ship Vestal.....	608	Glenelg, Lord	1837. 28 July.
Do	do	2 Dec.	No. 135	do	609	do	25 July.
Glenelg, Lord	Bourke, Sir Richard	3 Dec.	No. 234	Ship Prince George.....	610		
Do	do	3 Dec.	No. 255	do	254		
Do	do	4 Dec.	No. 236	do	610		
Do	do	10 Dec.	No. 237	do	611		
Do	do	10 Dec.	Separate	do	613		
Do	do	10 Dec.	No. 238	do	614	Bourke, Sir Richard	12 Sept.
Do	do	10 Dec.	Separate	do	615		
Do	do	10 Dec.	No. 239	do	616		
Do	do	10 Dec.	No. 240	do	254		
Do	do	20 Dec.	No. 244	do	618		
Do	do	21 Dec.	No. 241	do	622		
Bourke, Sir Richard	Glenelg, Lord	26 Dec.	No. 136	Ship Red Rover	255		
Do	do	27 Dec.	No. 137	do	622		
Glenelg, Lord	Bourke, Sir Richard	28 Dec.	No. 242	Ship Prince George.....	623		
Do	do	28 Dec.	No. 243	do	623	Glenelg, Lord	21 Oct.
Bourke, Sir Richard	Glenelg, Lord	28 Dec.	No. 138	Ship Red Rover	625		
Do	do	29 Dec.	No. 139	do	625		
Do	do	30 Dec.	No. 140	do	628	Glenelg, Lord	30 Sept.
Glenelg, Lord	Bourke, Sir Richard	31 Dec.	No. 245	Ship Hebe	254		
Do	do	31 Dec.	No. 246	do	629		
Do	do	31 Dec.	No. 247	do	629		
Do	do	31 Dec.	No. 248	do	630		
Do	do	31 Dec.	No. 249	do	255		
Bourke, Sir Richard	Glenelg, Lord	31 Dec.	No. 141	Ship Red Rover	633		
Do	do	1837. 1 Jan.	No. 1	do	632		
Do	Under Secretary of State	1 Jan.	No. 250	Ship Hebe	635	Bourke, Sir Richard	26 Nov.
Glenelg, Lord	Bourke, Sir Richard	2 Jan.	No. 2	Ship Red Rover	636		
Bourke, Sir Richard	Glenelg, Lord	2 Jan.	No. 251	Ship Hebe	637		
Glenelg, Lord	Bourke, Sir Richard	3 Jan.	No. 3	Ship Red Rover	637		
Bourke, Sir Richard	Glenelg, Lord	3 Jan.	No. 3	Ship Hebe	631		
Glenelg, Lord	Bourke, Sir Richard	4 Jan.	No. 252	Ship Red Rover	641		
Bourke, Sir Richard	Glenelg, Lord	4 Jan.	No. 4	Ship Hebe	644	Glenelg, Lord	23 Aug.
Glenelg, Lord	Bourke, Sir Richard	5 Jan.	No. 253	Ship Hebe	644		
Bourke, Sir Richard	Glenelg, Lord	6 Jan.	No. 5	Ship Red Rover	632		
Glenelg, Lord	Bourke, Sir Richard	10 Jan.	No. 254	Ship Hebe	644		

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		1837.					1837.
Glenelg, Lord	Bourke, Sir Richard	13 Jan.	No. 255	Ship Hebe	644	
Bourke, Sir Richard	Glenelg, Lord	24 Jan.	No. 6	Ship Red Rover	632	
Do	do	25 Jan.	No. 7	do	656	Glenelg, Lord	26 July.
Glenelg, Lord	Bourke, Sir Richard	26 Jan.	No. 256	Ship Hebe	656		.....
Do	do	27 Jan.	No. 257	do	658		.....
Bourke, Sir Richard	Glenelg, Lord	30 Jan.	No. 8	Ship Red Rover	658		3 July.
Do	do	31 Jan.	No. 9	do	662		.....
Do	do	2 Feb.	No. 10	do	662		.....
Glenelg, Lord	Bourke, Sir Richard	7 Feb.	No. 258	Ship Mangles	662		.....
Do	do	9 Feb.	No. 259	do	631		.....
Do	do	10 Feb.	No. 260	do	663		.....
Do	do	11 Feb.	No. 261	do	631		.....
Bourke, Sir Richard	Glenelg, Lord	11 Feb.	No. 11	Ship Douglas	664		.....
Glenelg, Lord	Bourke, Sir Richard	12 Feb.	No. 262	Ship John Barry	666		.....
Bourke, Sir Richard	Glenelg, Lord	12 Feb.	No. 12	Ship Douglas	669		28 Sept.
Glenelg, Lord	Bourke, Sir Richard	14 Feb.	No. 263	Ship Mangles	671		.....
Do	do	14 Feb.	No. 264	do	679	Gipps, Sir George	1838, 24 April.
Do	do	15 Feb.	No. 265	do	680		1837.
Do	do	16 Feb.	No. 266	do	686	Bourke, Sir Richard	6 Sept.
Do	do	18 Feb.	No. 269	Ship John Barry	688	do	29 July.
Bourke, Sir Richard	Glenelg, Lord	18 Feb.	No. 13	Ship Douglas	690		27 Nov.
Do	do	18 Feb.	No. 14	do	692		.....
Do	do	18 Feb.	No. 15	do	690		.....
Do	do	18 Feb.	No. 16	do	682		.....
Do	do	18 Feb.	No. 17	do	691		.....
Do	do	19 Feb.	No. 18	Ship Duchess of Northumberland	691		.....
Glenelg, Lord	Bourke, Sir Richard	20 Feb.	Circular	Ship Mangles	695		.....
Do	do	22 Feb.	Separate	do	695		.....
Do	do	27 Feb.	No. 267	Ship Mangles	695		.....
Do	do	27 Feb.	No. 268	Ship John Barry	701		.....
Do	do	4 Mar.	No. 270	Ship Mangles	703		.....
Do	do	7 Mar.	No. 271	do	681		.....
Do	do	8 Mar.	No. 272	do	703	
Do	do	9 Mar.	No. 273	do	704	Bourke, Sir Richard	1 sept.
Do	do	17 Mar.	No. 274	do	704	

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Glenelg, Lord	Bourke, Sir Richard	1837.	No. 275	Ship Lloyds	705	1837.
Do	do	21 Mar.	No. 277	do	681
Do	do	23 Mar.	No. 276	do	705	Bourke, Sir Richard	8 Sept.
Do	do	23 Mar.	No. 278	Ship Charles Kerr	712	.....	.....
Do	do	26 Mar.	No. 279	do	713	.....	.....
Do	do	27 Mar.	No. 280	do	714	.....	.....
Do	do	29 Mar.	No. 281	do	716	.....	.....
Do	do	29 Mar.	No. 282	do	722	.....	.....
Do	do	30 Mar.	No. 283	do	681	.....	.....
Do	do	2 April	No. 284	do	681	.....	.....
Do	do	4 April	No. 285	do	723	.....	.....
Do	do	6 April	No. 286	do	724	.....	.....
Do	do	7 April	No. 287	do	725	.....	.....
Do	do	10 April	No. 288	do	726	.....	.....
Bourke, Sir Richard	Glenelg, Lord	10 April	No. 19	Ship, Captain Cook	727	Glenelg, Lord	24 Nov.
Do	do	11 April	No. 20	do	730	.....	.....
Glenelg, Lord	Bourke, Sir Richard	12 April	No. 289	Ship Charles Kerr	730	.....	.....
Do	do	13 April	No. 290	do	730	.....	.....
Do	do	14 April	No. 291	do	730	.....	.....
Do	do	15 April	No. 292	do	731	.....	.....
Do	do	15 April	No. 293	do	731	.....	.....
Do	do	17 April	No. 294	do	732	.....	.....
Do	do	18 April	No. 295	do	732	.....	.....
Do	do	19 April	No. 296	do	733	.....	.....
Do	do	20 April	No. 297	do	734	Bourke, Sir Richard	25 Nov.
Do	do	21 April	No. 298	do	734	.....	.....
Do	do	22 April	No. 299	do	735	.....	.....
Do	do	24 April	No. 300	do	736	.....	.....
Bourke, Sir Richard	Glenelg, Lord	24 April	No. 21	Ship Ellen	736	Glenelg, Lord	31 Oct.
Do	do	28 April	No. 22	Ship Fortuna	737	do	29 Sept.
Do	do	29 April	No. 301	Ship Charles Kerr	738	.....	.....
Glenelg, Lord	Bourke, Sir Richard	29 April	No. 303	do	738	.....	.....
Do	do	29 April	No. 304	do	738	.....	.....
Do	do	29 April	No. 305	do	739	.....	.....
Bourke, Sir Richard	Glenelg, Lord	29 April	No. 302	Ship Fortuna	740	Glenelg, Lord	23 Sept.
Glenelg, Lord	Bourke, Sir Richard	30 April	No. 303	Ship Charles Kerr	741	.....	.....
Do	do	30 April	No. 306	do	742
Do	do	30 April	No. 307	do	742	Bourke, Sir Richard	4 Nov.

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Glenelg, Lord	Bourke, Sir Richard	1837.	No. 308	Ship Charles Kerr	744		1837.
Bourke, Sir Richard	Glenelg, Lord	1 May	No. 24	Ship Fortune	632	
Glenelg, Lord	Bourke, Sir Richard	2 May	No. 309	Ship Charles Kerr	631		.....
Bourke, Sir Richard	Glenelg, Lord	2 May	No. 25	Ship Fortune	745	Glenelg, Lord	14 Nov.
Do	do	3 May	No. 26	do	632		.....
Glenelg, Lord	Bourke, Sir Richard	3 May	No. 310	Ship Charles Kerr	746		.....
Do	do	4 May	No. 311	do	637	Bourke, Sir Richard	7 Nov.
Bourke, Sir Richard	Glenelg, Lord	4 May	No. 27	Ship Fortune	742		.....
Glenelg, Lord	Bourke, Sir Richard	5 May	No. 312	Ship Charles Kerr	631		.....
Do	do	9 May	No. 313	do	748		.....
Do	do	10 May	No. 314	do	748	Bourke, Sir Richard	10 Oct.
Do	do	10 May	Circular	do	749		.....
Do	do	11 May	No. 315	do	749	Gipps, Sir George	1839,
Do	do	13 May	No. 316	do	631		19 Nov.
Bourke, Sir Richard	Glenelg, Lord	14 May	No. 28	Ship Fortune	750	Glenelg, Lord	1837,
Glenelg, Lord	Bourke, Sir Richard	15 May	No. 317	Ship Charles Kerr	751	Gipps, Sir George	24 Oct.
Bourke, Sir Richard	Glenelg, Lord	16 May	No. 29	Ship Fortune	751		1839,
Do	do	16 May	No. 30	do	754		13 April,
Do	do	17 May	No. 31	do	755	Glenelg, Lord	22 Oct.
Do	do	18 May	No. 32	do	757		24 Oct.
Glenelg, Lord	Bourke, Sir Richard	18 May	No. 318	Ship Charles Kerr	631		17 Oct.
Do	do	19 May	No. 319	do	759		.....
Do	do	19 May	Separate	do	759		.....
Bourke, Sir Richard	Glenelg, Lord	19 May	No. 33	Ship Fortune	700	Glenelg, Lord	23 Oct.
Glenelg, Lord	Bourke, Sir Richard	20 May	No. 320	Ship Charles Kerr	760		.....
Do	do	20 May	No. 321	Ship James Pattison	761		.....
Bourke, Sir Richard	Glenelg, Lord	20 May	No. 34	Ship Fortune	762		.....
Glenelg, Lord	Bourke, Sir Richard	25 May	No. 321	Ship Charles Kerr	631		.....
Bourke, Sir Richard	do	26 May	Separate	do	763	Bourke, Sir Richard	22 Nov.
Do	do	31 May	No. 322	Ship James Pattison	631		1838,
Do	do	31 May	No. 324	do	765	Gipps, Sir George	30 Sept.
Bourke, Sir Richard	Glenelg, Lord	1 June	No. 35	Ship Maria	632	
Do	do	2 June	No. 36	do	632	

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Bourke, Sir Richard	Glenelg, Lord	1837. 3 June	No. 37	Ship Maria	766	Glenelg, Lord	1837. 27 Nov.
Do	do	4 June	No. 38	do	767	do	16 Nov.
Glenelg, Lord	do	5 June	No. 39	do	772	Bourke, Sir Richard	
Bourke, Sir Richard	Bourke, Sir Richard	6 June	No. 325	Ship James Pattison	773	Glenelg, Lord	28 Dec.
Do	Glenelg, Lord	6 June	No. 40	Ship Maria	775	do	18 Nov.
Do	do	7 June	No. 41	do	775		
Do	do	8 June	No. 42	do	632		
Glenelg, Lord	Bourke, Sir Richard	9 June	No. 326	Ship James Pattison	777		
Do	do	10 June	No. 327	do	777		
Do	do	10 June	Circular	do	778		
Do	do	12 June		H.M. ship Beagle	778		
Do	do	12 June	No. 328	Ship James Pattison	778		
Do	do	14 June	No. 329	do	631		
Bourke, Sir Richard	Glenelg, Lord	14 June	No. 43	Ship Maria	780	Glenelg, Lord	1838. 3 April.
Do	do	14 June	No. 44	do	784		
Do	do	15 June	No. 45	do	784		
Glenelg, Lord	Bourke, Sir Richard	16 June	No. 330	Ship William Nicol	786	Glenelg, Lord	15 May.
Bourke, Sir Richard	Glenelg, Lord	16 June	No. 46	Ship Maria	786	Glenelg, Lord	1837. 23 Nov.
Glenelg, Lord	Bourke, Sir Richard	17 June	Separate	Ship William Nicol	787	Bourke, Sir Richard	27 Nov.
Do	do	17 June	No. 331	Ship James Pattison	788		
Bourke, Sir Richard	Glenelg, Lord	17 June	No. 47	Ship Maria	788	Glenelg, Lord	19 Dec.
Do	do	17 June	No. 48	do	789	do	14 Dec.
Do	do	20 June	No. 49	do	789		
Glenelg, Lord	Bourke, Sir Richard	21 June		Ship James Pattison	790	Bourke, Sir Richard	28 Oct.
Bourke, Sir Richard	Glenelg, Lord	21 June	No. 50	Ship Maria	632		
Do	do	22 June	No. 51	do	632		
Glenelg, Lord	Bourke, Sir Richard	23 June	No. 332	Ship James Pattison	791	Bourke, Sir Richard	28 Oct.
Do	do	23 June	No. 333	do	793		
Bourke, Sir Richard	Glenelg, Lord	23 June	No. 52	Ship Maria	632		
Glenelg, Lord	Bourke, Sir Richard	24 June	No. 333	Ship James Pattison	794		
Bourke, Sir Richard	Glenelg, Lord	26 June	No. 53	Ship Thomas Lowry	795	Glenelg, Lord	20 Nov.
Do	do	27 June	No. 54	do	799	do	30 Dec.
Do	do	28 June	No. 55	do	632		
Do	do	29 June	No. 56	do	632		
Glenelg, Lord	Bourke, Sir Richard	30 June	No. 334	Ship James Pattison	801		

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